DOCUMENT RESUME

ED 390 425 IR 055 772

TITLE	Library Law Handbook: State Laws Relating to Michigan Libraries. 1993 Edition.
INSTITUTION	Michigan Library, Lansing.
PUB DATE	93
NOTE	205p.
AVAILABLE FROM	Library of Michigan, Public Information Office, P.O. Box 30007, 717 W. Allegan St., Lansing, MI 48909.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC09 Plus Postage.
DESCRIPTORS	Access to Information; *Legal Responsibility; *Libraries; Library Services; Library Standards; *Public Policy; *State Legislation; State Regulation
IDENTIFIERS	*Michigan

ABSTRACT

This document is a compilation of state laws relating to Michigan libraries, intended as a tool for library managers and as an expression of continued commitment to strengthening library services throughout the state. It reprints legislation directly related to libraries of all levels, including: library networks; regional libraries: district libraries; city, village, and township libraries; public libraries; and county libraries. The text of the Michigan Compiled Laws, supplemented through the end of the 1991-92 Regular Session of the Michigan Legislature, also contains the text of the Freedom of Information Act (1976), the Open Meetings Act (1976), the Laws Documents, and Reports Act (1899), the Michigan Handicappers' Civil Rights Act (1976), the Elliott-Larsen Civil Rights Act (1976), the Uniform Budgeting and Accounting Act (1968), the Charitable Organizations and Solicitations Act (1975), and the Michigan Occupational Safety and Health Act (1974). It also notes small portions of election law, tax law, dog law, vehicle code, public health law, school code, and penal code which affect library use, attendance, or employment. An index to Michigan Attorney General Opinions through December 1992 is appended. (BEW)

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Library of Michigan

Library Law Handbook

State Laws Relating to Michigan Libraries

1993 Edition

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Dear Colleague:

I am pleased to present this new 1993 edition of the compilation of state laws relating to Michigan libraries, the **Library Law Handbook.** It is essential that librarians, government officials, and citizens be aware of the many state statutes and Attorney General Opinions which affect the operation and development of libraries in Michigan. The Library of Michigan is committed to strengthening library services throughout our state, and this compilation of library laws is an important part of that commitment. I know that it will be an important management tool for you.

The **Library Law Handbook** is reprinted under the editorial direction of the Legislative Service Bureau from the text of the Michigan Compiled Laws, supplemented through the end of the 1991-92 Regular Session of the Michigan Legislature. The Index to Michigan Attorney General Opinions includes citations through Opinion No. 6745 (December 1992).

This publication is an important part of the Library of Michigan program supporting local library board members, library directors, and staff as they work together to strengthen public library service in Michigan.

Sincerely,

James W. Fry
State Librarian

JWF/tld

PREFACE

The *Library Laws Handbook* is reprinted under the editorial direction of the Legislative Service Bureau from the text of the *Michigan Compiled Laws*, supplemented through Act 309 of the 1992 Regular Session of the Michigan Legislature.

Materials in boldface type, particularly catchlines and annotations to the statutes, are not part of the statutes as enacted by the Legislature.

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CONSTITUTION OF MICHIGAN OF 1963 (EXCERPTS)

PREAMBLE

Preamble.

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE VIII

Education

§9 Public libraries, fines.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

History: Const. 1963, Art. VIII, §9, Eff. Jan. 1, 1964.

Former Constitution: See Const. 1908, Art. XI, §14.

ARTICLE IX

Finance and Taxation

§6 Real and tangible personal property; limitation on general ad valorem taxes; adoption and alteration of separate tax limitations; exceptions to limitations; property tax on school district extending into 2 or more counties.

Section 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds approved by the electors or other evidences of indebtedness approved by the electors or for the payment of assessments or contract obligations in anticipation of which bonds are issued approved by the electors, which taxes may be imposed without limitation as to rate or amount; or, subject to the provisions of Section 25 through 34 of this article, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

History: Const. 1963, Art. IX, §6, Eff. Jan. 1, 1964;—Am. Initiated Law, approved Nov. 7, 1978, Eff. Dec. 23, 1978.

Former Constitution: See Const. 1908, Art. X, §21.

LEGISLATIVE COUNCIL ACT (EXCERPT)

Act 268 of 1986

AN ACT to create the legislative council; to prescribe its membership, powers, and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to provide for operation of legislative parking facilities; to create funds; to provide for the expenditure of appropriated funds by legislative council agencies; to authorize the sale of access to certain computerized data bases; to establish fees; to create the Michigan commission on uniform state laws; to create a law revision commission; to create a senate fiscal agency and a house fiscal agency; to create a Michigan capitol committee; to create a commission on intergovernmental relations; to prescribe the powers and duties of certain state agencies and departments; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates.

History: 1986, Act 268, Imd. Eff. Dec. 19, 1986;—Am. 1987, Act 123, Imd. Eff. July 23, 1987;—Am. 1988, Act 100, Eff. July 1, 1988.

The People of the State of Michigan enact:

CHAPTER 1.

LEGISLATIVE COUNCIL.

4.1107 Legislative reference library; research services; technical and other assistance.

Sec. 107. The bureau shall maintain a legislative reference library containing material which may be of use in connection with legislation. Upon request, the bureau shall furnish research services to members of the legislature. The bureau shall furnish such technical and other assistance to legislative committees as may be authorized by the council.

History: 1986, Act 268, Imd. Eff. Dec. 19, 1986.

FREEDOM OF INFORMATION ACT

Act 442 of 1976

AN ACT to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 442, Eff. Apr. 13, 1977.

The People of the State of Michigan enact:

15.231 Short title; public policy.

Sec. 1. (1) This act shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Cited in other sections: Section 15.231 et seq. is cited in §§3.555, 4.314, 4.1104, 4.1403, 4.1501, 4.1601, 10.72a, 14.306, 18.80, 18.302a, 18.402, 18.405, 18.1298a, 28.652, 29.3b, 29.5p, 29.22, 29.369a, 35.603a, 35.1054, 37.2601, 38.12, 38.139, 38.411, 38.423, 38.457, 38.467, 38.552, 38.1038, 38.1143, 38.1323, 38.1607, 38.2204, 41.62, 41.78, 41.811, 42.7, 45.510, 46.5, 46.31, 46.357, 46.403, 47.6, 47.13, 54.265, 65.5, 67.64, 78.1a, 78.23, 85.3, 88.8, 88.14, 117.3, 117.5c, 117.5e, 120.29a, 123.734, 123.777, 123.1004a, 124.13 123.1032, 124.425, 124.685, 125.213, 125.219, 125.325, 125.541c, 125.585a, 125.655, 125.701, 125.1503, 125.1510, 125.1514, 125.1516, 125.1553, 125.1574, 125.1617, 125.1654, 125.1804, 125.1954, 125.2005, 125.2155, 125.2209, 125.2463, 132.1a, 141.14, 141.691, 141.1057, 168.522a, 205.74, 209.3, 211.10c, 211.119, 211.146, 259.808, 224.9a, 247.813a, 257.1505, 259.626, 279.212, 280.8, 281.502a, 282.3a, 285.63, 285.170, 288.24a, 288.103j, 285.214, 290.422, 290.424a, 290.560, 290.657, 290.669, 290.673, 290.674, 295.123, 299.4, 299.307, 299.235, 299.391, 299.528, 299.610d, 318.63, 318.408, 318.429, 318.508, 318.511, 319.3, 319.8, 319.19, 319.20, 320.503, 323.2, 323.157, 325.75, 325.77, 325.2029, 331.6, 331.8r, 331.606, 331.707, 331.1211, 331.1212, 331.1260, 331.1302, 332.153b, 333.5114a, 333.5621, 333.5715, 333.5737, 333.5907, 336.14, 338.907, 338.974, 338.1706, 338.1729, 338.3203, 339.105, 388.683, 388.1014a, 388.1618, 389.113, 390.15, 390.119, 390.120, 390.122, 390.941, 390.1232, 390.1430, 393.365, 397.603, 399.4a, 399.38, 399.76, 399.203, 399.205, 399.407, 399.507, 400.2, 400.11d, 400.45, 400.46, 400.47, 400.61, 400.64, 400.546a, 400.588, 400.708, 400.1114, 400.1503, 408.206, 408.385, 408.1014d, 408.1063, 418.212, 418.230, 418.235, 421.3b, 421.33, 421.36, 423.7a, 423.25, 423.510, 425.1109, 425.1902, 432.25, 434.23, 445.1542, 445.1609, 447.156, 460.61, 484.1706, 484.2210, 491.300, 491.522, 493.11, 500.438, 550.934, 550.1604, 567.50, 712A.18e, 722.605, 752.1, 752.1026, 764.25b, 780.623, 780.769, 780.830, 791.212, 791.230, 801.204, and 830.413.

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Person" means an individual, corporation, partnership, firm, organization, or association.

(b) "Public body" means:

(*i*) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(*ii*) An agency, board, commission, or council in the legislative branch of the state government.

(*iii*) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(*iv*) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority.

(*v*) The judiciary, including the office of the county clerk and employees thereof when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(c) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. This act separates public records into 2 classes: (*i*) those which are exempt from disclosure under section 13, and (*ii*) all others, which shall be subject to disclosure under this act.

(d) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(*i*) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(*ii*) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Cited in other sections: Section 15.232 is cited in §18.1115.

15.233 Public records; right to inspect, copy, or receive; subscriptions; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3. (1) Upon an oral or written request which describes the public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of a public record of a public body, except as

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otherwise expressly provided by section 13. A person has a right to subscribe to future issuances of public records which are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable.

(2) A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions.

(3) This act does not require a public body to make a compilation, summary, or report of information, except as required in section 11.

This act does not require a public body to create a new public record, except as required in sections 5 and 11, and to the extent required by this act for the furnishing of copies, or edited copies pursuant to section 14(1), of an already existing public record.

(5) The custodian of a public record shall, upon request, furnish a requesting person a certified copy of a public record.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Compiler's note: This section was enacted into law without a designated subsection "(4)."

Cited in other sections: Section 15.233 is cited in §257.208.

15.234 Fees; waiver or reduction; affidavit; deposit; calculation of costs; provisions inapplicable to certain public records; review by bipartisan joint committee; appointment of members.

Sec. 4. (1) A public body may charge a fee for providing a copy of a public record. Subject to subsection (3), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because furnishing copies of the public record can be considered as primarily benefiting the general public. Except as provided in section 30(3) of Act No. 232 of the Public Acts of 1953, being section 791.230 of the Michigan Compiled Laws, a copy of a public record shall be furnished without charge for the first $20.00 of the fee for each request, to an individual who submits an affidavit stating that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

(2) At the time the request is made, a public body may request a good faith deposit from the person requesting the public record or series of public records, if the fee provided in subsection (1) exceeds $50.00. The deposit shall not exceed 1/2 of the total fee.

(3) In calculating the costs under subsection (1), a public body may not attribute more than the hourly wage of the lowest paid, full-time, permanent clerical employee of the employing public body to the cost of labor incurred in duplication and mailing and to the cost of examination, review, separation, and deletion. A public body shall utilize the most economical means available for providing copies of public records. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection.

(4) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or where the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(5) Three years after the effective date of this act a bipartisan joint committee of 3 members of each house shall review the operation of this section and recommend appropriate changes. The members of the house of representatives shall be appointed by the speaker of the house of representatives. The members of the senate shall be appointed by the majority leader of the senate.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1988, Act 99, Imd. Eff. Apr. 11, 1988.

Constitutionality: The disclosure of public records under the freedom of information act impartially to the general public for the incremental cost of creating the record is not a granting of credit by the state in aid of private persons and does not justify nondisclosure on the theory that the information is proprietary information belonging to a public body. Kestenbaum v. Michigan State University, 414 Mich. 510, 417 N.W.2d 1102 (1982).

Cited in other sections: Section 15.234 is cited in §§281.704, 333.2232, 712A.18e, 780.623, and 791.230.

15.235 Request to inspect or receive copy of public record; response to request; failure to respond; court order to disclose or provide copies; damages; contents of notice denying request; signing notice of denial; notice extending period of response; grounds for commencement of action.

Sec. 5. (1) A person desiring to inspect or receive a copy of a public record may make an oral or written request for the public record to the public body.

(2) When a public body receives a request for a public record it shall immediately, but not more than 5 business days after the day the request is received unless otherwise agreed to in writing by the person making the request, respond to the request by 1 of the following:

(a) Grant the request.

(b) Issue a written notice to the requesting person denying the request.

(c) Grant the request in part and issue a written notice to the requesting person denying the request in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.

(3) Failure to respond to a request as provided in subsection (2) constitutes a final decision by the public body to deny the request. If a circuit court, upon an action commenced pursuant to section 10, finds that a public body has failed to respond as provided in subsection (2), and if the court orders the public body to disclose or provide copies of the public record or a portion thereof, then the circuit court shall assess damages against the public body as provided in section 10(5).

(4) A written notice denying a request for a public record in whole or in part shall constitute a final determination by the public body to deny the request or portion thereof and shall contain:

(a) An explanation of the basis under this act or other statute for the determination that the public record, or the portion thereof, is exempt from disclosure, if that is the reason for denying the request or a portion thereof.

(b) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the public body, if that is the reason for denying the request or a portion thereof.

(c) A description of a public record or information on a public record which is separated or deleted as provided in section 14, if a separation or deletion is made.

(d) A full explanation of the requesting person's right to seek judicial review under section 10. Notification of the right to judicial review shall include notification of the right to receive attorneys' fees and damages as provided in section 10.

(5) The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial.

(6) If a public body issues a notice extending the period for a response to the request, the notice shall set forth the reasons for the extension and the date by which the public body shall do 1 of the following:

(a) Grant the request.

(b) Issue a written notice to the requesting person denying the request.

(c) Grant the request in part and issue a written notice to the requesting person denying the request in part.

(7) If a public body makes a final determination to deny in whole or in part a request to inspect or receive a copy of a public record or portion thereof, the requesting person may commence an action in circuit court, as provided in section 10.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978.

Cited in other sections: Section 15.235 is cited in §§29.3b and 299.528.

15.236 Persons responsible for approving denial of request for public record.

Sec. 6. (1) For a public body which is a city, village, township, county, or state department, or under the control thereof, the chief administrative officer of that city, village, township, county, or state department, or an individual designated in writing by that chief administrative officer, shall be responsible for approving a denial under section 5(4) and (5). In a county not having an executive form of government, the chairperson of the county board of commissioners shall be considered the chief administrative officer for purposes of this subsection.

(2) For all other public bodies, the chief administrative officer of the respective public body, or an individual designated in writing by that chief administrative officer, shall be responsible for approving a denial under section 5(4) and (5).

History: 1976, Act 442, Eff. Apr. 13, 1977.

15.240 Action to compel disclosure of public records; commencement; orders; jurisdiction; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10. (1) If a public body makes a final determination to deny a request or a portion thereof, the requesting person may commence an action in the circuit court to compel disclosure of the public records. If the court determines that the public records are not exempt from disclosure, the court shall order the public body to cease withholding or to produce a public record or a portion thereof wrongfully withheld, regardless of the location of the public record. The circuit court for the county in which the complainant resides or has his principal place of business, or the circuit court for the county in which the public record or an office of the public body is located shall have jurisdiction to issue the order. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(2) An action under this section arising from the denial of an oral request may not be commenced unless the requesting person confirms the oral request in writing not less than 5 days before commencement of the action.

(3) An action commenced pursuant to this section and appeals therefrom shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(4) If a person asserting the right to inspect or to receive a copy of a public record or a portion thereof prevails in an action commenced pursuant to this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person prevails in part, the court may in its discretion award reasonable attorneys' fees, costs, and disbursements or an appropriate portion thereof. The award shall be assessed against the public body liable for damages under subsection (5).

(5) In an action commenced pursuant to this section, if the circuit court finds that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall, in addition to any actual or compensatory damages, award punitive damages in the amount of $500.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body, not an individual, pursuant to whose public function the public record was kept or maintained.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978.

15.241 Matters required to be published and made available by state agencies; form of publications; effect on person of matter not published and made available; exception; action to compel compliance by state agency; order; attorneys' fees, costs, and disbursements; jurisdiction; definitions.

Sec. 11. (1) A state agency shall publish and make available to the public all of the following:

(a) Final orders or decisions in contested cases and the records on which they were made.

(b) Promulgated rules.

(c) Other written statements which implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) Publications may be in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

(3) Except to the extent that a person has actual and timely notice of the terms thereof, a person shall not in any manner be required to resort to, or be adversely affected by, a matter required to be published and made available, if the matter is not so published and made available.

(4) This section does not apply to public records which are exempt from disclosure under section 13.

(5) A person may commence an action in the circuit court to compel a state agency to comply with this section. If the court determines that the state agency has failed to comply, the court shall order the state agency to comply and shall award reasonable attorneys' fees, costs, and disbursements to the person commencing the action. The circuit court for the county in which the state agency is located shall have jurisdiction to issue the order.

(6) As used in this section, "state agency", "contested case", and "rules" shall have the same meanings as ascribed to those terms in Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 442, Eff. Apr. 13, 1977.

15.243 Exemptions from disclosure; withholding of information.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act:

(a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(*i*) Interfere with law enforcement proceedings.

(*ii*) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(*iii*) Constitute an unwarranted invasion of personal privacy.

(*iv*) Disclose the identity of a confidential source, or if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(*v*) Disclose law enforcement investigative techniques or procedures.

(*vi*) Endanger the life or physical safety of law enforcement personnel.

(c) A public record which if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) Information the release of which would prevent the public body from complying with 20 U.S.C. section 1232g.

(f) A public record or information described in this section which is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(g) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(*i*) The information is submitted upon a promise of confidentiality by the public body.

(*ii*) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(*iii*) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision shall not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(h) Information or records subject to the attorney-client privilege.

(i) Information or records subject to the physician-patient, psychologist-patient, minister, priest or Christian science practitioner, or other privilege recognized by statute or court rule.

(j) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the time for the receipt of bids or proposals has expired.

(k) Appraisals of real property to be acquired by the public body until (i) an agreement is entered into; or (*ii*) 3 years has elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(*l*) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(m) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.

(n) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communications between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of Act No. 267 of the Public Acts of 1976, being section 15.268 of the Michigan Compiled Laws. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Michigan Compiled Laws.

(o) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, which if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(p) Information which would reveal the exact location of archeological sites. The secretary of state may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to provide for the disclosure of the location of archeological sites for purposes relating to the preservation or scientific examination of sites.

(q) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision shall not apply after 1 year has elapsed from the time the public body completes the testing.

(r) Academic transcripts of an institution of higher education established under sections 5, 6 or 7 of article 8 of the state constitution of 1963, where the record pertains to a student who is delinquent in the payment of financial obligations to the institution.

(s) Records of any campaign committee including any committee that receives monies from a state campaign fund.

(t) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a police or sheriff's agency or department, the release of which would do any of the following:

(*i*) Identify or provide a means of identifying an informer.

(*ii*) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(*iii*) Disclose the personal address or telephone number of law enforcement officers or agents or any special skills that they may have.

(*iv*) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of law enforcement officers or agents.

(*v*) Disclose operational instructions for law enforcement officers or agents.

(*vi*) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(*vii*) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(*viii*) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informer.

(*ix*) Disclose personnel records of law enforcement agencies.

(*x*) Identify or provide a means of identifying residences which law enforcement agencies are requested to check in the absence of their owners or tenants.

(2) This act shall not authorize the withholding of information otherwise required by law to be made available to the public, or to a party in a contested case under Act No. 306 of the Public Acts of 1969, as amended.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978.

Cited in other sections: Section 15.243 is cited in §§124.12, 299.610d, 333.5613, 500.134, and 764.25a.

15.243a Salary records of employee or other official of institution of higher education, school district, intermediate school district, or community college available to public on request.

Sec. 13a. Notwithstanding section 13, an institution of higher education established under section 5, 6, or 7 of article 8 of the state constitution of 1963; a school district as defined in section 6 of Act No. 451 of the Public Acts of 1976, being section 380.6 of the Michigan Compiled Laws; an intermediate school district as defined in section 4 of Act No. 451 of the Public Acts of 1976, being section 380.4 of the Michigan Compiled Laws; or a community college established under Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Michigan Compiled Laws shall upon request make available to the public the salary records of an employee or other official of the institution of higher education, school district, intermediate school district, or community college.

History: Add. 1979, Act 130, Imd. Eff. Oct. 26, 1979.

15.244 Separation of exempt and nonexempt material; design of public record; description of material exempted.

Sec. 14. (1) If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

(2) When designing a public record, a public body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Cited in other sections: Section 15.244 is cited in §550.1612.

15.245 Repeal of §§24.221, 24.222, and 24.223.

Sec. 15. Sections 21, 22 and 23 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.221, 24.222 and 24.223 of the Michigan Compiled Laws, are repealed.

History: 1976, Act 442, Eff. Apr. 13, 1977.

15.246 Effective date.

Sec. 16. This act shall take effect 90 days after being signed by the governor.

History: 1976, Act 442, Eff. Apr. 13, 1977.

OPEN MEETINGS ACT

Act 267 of 1976

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 267, Eff. Mar. 31, 1977.

The People of the State of Michigan enact:

15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.

Sec. 1. (1) This act shall be known and may be cited as the "Open meetings act".

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

History: 1976, Act 267, Eff. Mar. 31, 1977.

Cited in other sections: Section 15.261 et seq. is cited in §§3.555, 3.819, 4.314, 4.1104, 4.1803, 10.72a, 16.276, 16.713, 17.2, 18.79, 18.302a, 18.402, 18.405, 18.422, 18.1208, 18.1298a, 28.606, 28.652, 29.3b, 29.22, 29.366, 32.762, 32.87[illegible], 35.603a, 35.1054, 36.7, 37.2601, 38.5, 38.136, 38.411, 38.423, 38.457, 38.467, 38.552, 38.1032, 38.1143, 38.1323, 38.1607, 38.2204, 41.8, 41.95, 41.106, 41.350b, 41.413a, 41.801, 41.811, 41.837, 42.6a, 42.7, 45.475, 45.510, 46.1, 46.10, 46.11, 46.16, 46.31, 46.353, 46.403, 47.6, 47.13, 54.265, 65.4, 67.13, 67.64, 74.17, 78.1a, 78.23, 85.3a, 88.7, 117.3, 117.5c, 117.5e, 117.15, 120.10a, 123.734 123.777, 123.955a, 123.1004a, 123.1032, 124.13, 124.24, 124.404a, 124.410, 124.425, 124.685, 125.219, 125.325, 125.541c, 125.585a, 125.655, 125.701, 125.1355, 125.1421, 125.1503, 125.1514, 125.1[illegible]3, 125.1574, 125.1654, 125.1804, 125.2005, 125.2155, 125.2209, 125.2216, 125.2455, 125.2463, 132.1a, 141.14, 141.434, 141.504, 141.691, 141.932, 141.1002, 141.1055, 200.304, 205.726, 205.734, 209.2, 211.10c, 211.24e, 211.29, 211.34, 211.119, 211.149, 224.9, 224.14, 224.17, 225.3, 229.2, 247.655a, 247.675, 247.809a, 247.855, 256.562, 259.625, 259.806, 259.808, 279.212, 279.215, 279.236, 279.237, 280.8, 280.72, 280.80, 280.106, 280.441, 280.441a, 280.489a, 280.538a, 281.502a, 281.1323, 282.3a, 285.170, 285.253, 286.183, 286.570, 290.422, 290.555, 290.566, 290.657, 290.669, 290.673, 290.674, 290.703, 295.106, 299.1, 299.235, 299.253, 299.307, 299.473, 299.517, 299.609b, 299.611c, 299.759, 299.784, 299.820, 318.63, 318.408, 318.429, 318.508, 318.511, 319.3, 319.20, 319.218, 319.230, 319.235, 320.503, 320.1107, 320.2004, 323.2, 323.156, 325.2008, 325.2028, 331.6, 331.41, 331.56, 331.606, 331.704, 332.153b, 333.5737, 333.5907, 333.12713, 333.12715, 333.16138, 333.20724, 333.20915, 333.22226, 333.26204, 333.26208, 333.26213, 333.26217, 336.14, 338.882, 338.890, 338.907, 338.974, 338.985, 338.1706, 338.1729, 338.3203, 339.305, 380.247, 380.346, 380.623, 380.1201, 388.683, 388.1004, 389.111, 389.113, 390.20, 390.104, 390.154, 390.353, 390.394, 390.554, 390.645, 390.715, 390.803, 390.843, 390.913a, 390.941, 390.955a, 390.1430, 393.365, 399.24, 399.38, 399.75, 399.203, 399.205, 399.407, 399.507, 400.2, 400.9, 400.46, 400.47, 400.61, 400.121, 400.152a, 400.546a, 400.588, 400.708, 400.1114, 400.1503, 408.206, 408.325, 408.340, 408.385, 408.654, 408.753, 408.808, 408.821, 408.1048, 418.235, 418.756, 421.3b, 423.7a, 425.1203, 445.824, 445.1609, 447.156, 460.61, 484.1705, 500.2402, 722.605, 752.1025, 791.202, 791.230, 791.505, 801.204, and 830.412.

15.262 Definitions.

Sec. 2. As used in this act:

(a) "Public body" means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, which is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function, or a lessee thereof performing an essential public purpose and function pursuant to the lease agreement.

(b) "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy.

(c) "Closed session" means a meeting or part of a meeting of a public body which is closed to the public.

(d) "Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

History: 1976, Act 267, Eff. Mar. 31, 1977.

Cited in other sections: Section 15.262 is cited in §333.12601.

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

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(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies only when deliberating the merits of a case:

(a) The worker's compensation appeal board created under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(b) The employment security board of review created under the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws.

(c) The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, when acting as a board of review from the decision of a controlling board.

(d) An arbitrator or arbitration panel appointed by the employment relations commission under the authority given the commission by Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Michigan Compiled Laws.

(e) An arbitration panel selected under chapter 50A of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.5040 to 600.5065 of the Michigan Compiled Laws.

(f) The Michigan public service commission created under Act No. 3 of the Public Acts of 1939, being sections 460.1 to 460.8 of the Michigan Compiled Laws.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, or other association or facility formed under Act No. 218 of the Public Acts of 1956 as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body which adopts a nonpolicymaking resolution of tribute or memorial which resolution is not adopted at a meeting.

(10) This act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid this act.

(11) This act shall not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under Act No. 9 of the Public Acts of the first extra session of 1946, being sections 35.601 to 35.610 of the Michigan Compiled Laws, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation which the board of trustees, by rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, determines requires immediate action.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;—Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;—Am. 1988, Act 158, Imd. Eff. June 14, 1988;—Am. 1988, Act 278, Imd. Eff. July 27, 1988.

Cited in other sections: Section 15.263 is cited in §88.9.

Administrative rules: R 35.621 of the Michigan Administrative Code.

15.264 Public notice of meetings generally; contents; places of posting.

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984.

15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; time for posting; statement of date, time, and place; applicability of subsection (4); recess or adjournment; emergency sessions; meeting in residential dwelling; notice.

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting. The requirement of 18-hour notice shall not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting. This subsection does not apply to a public meeting held pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts of 1955, as amended, being section 200.304 of the Michigan Compiled Laws.

(5) A meeting of a public body which is recessed for more than 36 hours shall be reconvened only after public notice, which is equivalent to that required under subsection (4), has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section shall bar a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body which is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice, which shall be at the bottom of the display advertisement and which shall be set off in a conspicuous manner, shall include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1978, Act 256, Imd. Eff. June 21, 1978;—Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;—Am. 1984, Act 167, Imd. Eff. June 29, 1984.

15.266 Providing copies of public notice on written request; fee.

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.267 Closed sessions; roll call vote; separate set of minutes.

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving shall be required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), and (g). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, shall not be available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

History: 1976, Act 267, Eff. Mar. 31, 1977.

Cited in other sections: Section 15.267 is cited in §339.316.

15.268 Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered thereafter only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education which the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review the specific contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act.

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1984, Act 202, Imd. Eff. July 3, 1984.

Cited in other sections: Section 15.268 is cited in §§15.243, 46.1, 338.1720, 380.132, 380.471a, and 722.135.

15.269 Minutes generally.

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. Corrections in the minutes shall be made not later than the next meeting after the meeting to which the minutes refer. Corrected minutes shall be available no later than the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes shall be public records open to public inspection and shall be available at the address designated on posted public notices pursuant to section 4. Copies of the minutes shall be available to the public at the reasonable estimated cost for printing and copying.

(3) Proposed minutes shall be available for public inspection not more than 8 business days after the meeting to which the minutes refer. Approved minutes shall be available for public inspection not later than 5 business days after the meeting at which the minutes are approved by the public body.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982.

15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.272 Violation as misdemeanor; penalty.

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than $1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than $2,000.00, or imprisoned for not more than 1 year, or both.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273 Violation; liability.

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than $500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.274 Repeal of §§15.251 to 15.253.

Sec. 14. Act No. 261 of the Public Acts of 1968, being sections 15.251 to 15.253 of the Compiled Laws of 1970, is repealed.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.275 Effective date.

Sec. 15. This act shall take effect January 1, 1977.

History: 1976, Act 267, Eff. Mar. 31, 1977.

LAWS, DOCUMENTS, AND REPORTS (EXCERPTS)

Act 44 of 1899

AN ACT to provide for the publication and distribution of laws and documents, reports of the several officers, boards of officers and public institutions of this state now or hereafter to be published; to provide for the replacing of books lost by fire or otherwise; to provide for the publication and distribution of the Michigan manual; and to establish certain funds.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—Am. 1958, Act 161, Eff. Sept. 13, 1958;—Am. 1988, Act 185, Eff. July 1, 1988.

The People of the State of Michigan enact:

24.2 Public and local acts; distribution without charge; imprinting copies for senate and house of representatives; complete set of public and local acts for members of legislature; requisition by county clerk; publication of additional copies; deposit of copies in state library and department of management and budget; reprints of laws; publishing laws relating to revenues of state.

Sec. 2. (1) Upon written request to the legislative service bureau, the department of management and budget shall distribute, without charge, 1 volume containing the public and local acts of each session of the legislature to each of the following:

(a) Libraries of all state officers, departments, boards, commissions, and institutions.

(b) Senators and representatives of this state in congress.

(c) The library of congress.

(d) The United States supreme court and judges and clerks of circuit and district courts of the United States in this state.

(e) Justices, clerks, and the reporter of the state supreme court.

(f) Judges of the court of appeals, circuit, recorder's, district, and municipal courts of this state.

(g) All public libraries, as defined in section 1 of Act No. 59 of the Public Acts of 1964, being section 397.31 of the Michigan Compiled Laws, and all county law libraries.

(2) The department of management and budget shall also distribute 1 volume containing the public and local acts of each session of the legislature to the secretary of the senate and the clerk of the house of representatives and 42 copies imprinted "senate" and 144 copies imprinted "house of representatives", to be used as desk copies, to the secretary of the senate and the clerk of the house of representatives, respectively. Members of the legislature shall also receive a complete set of the public and local acts published subsequent to the latest edition of the Michigan Compiled Laws, for their personal property during each term for which they are elected.

(3) The county clerk shall file a requisition for all copies of the public and local acts for the needs of the clerk's county, including county officers and townships, villages, and cities and their officers within the clerk's county, with the legislative service bureau by February 15, of each year. There may be published additional copies of the public and local acts as the legislative service bureau considers necessary. One hundred forty of those copies shall be deposited in the state library for use in the library and for exchanges, and the remaining copies shall be deposited with the department of management and budget for sale and future distribution.

(4) The legislative service bureau may prepare, at not less than the actual cost, reprints of laws upon particular subjects for printing and distribution. The department of treasury shall publish and distribute all pamphlets of the general tax law or of all other laws relating to the revenues of the state.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—Am. 1911, Act 240, Eff. Aug. 1, 1911;—Am. 1915, Act 29, Eff. Aug. 24, 1915;—CL 1915, 821;—Am. 1921, Act 32, Eff. Aug. 18, 1921;—CL 1929, 487;—Am. 1931, Act 187, Imd. Eff. May 28, 1931;—CL 1948, 24.2;—Am. 1958, Act 161, Eff. Sept. 13, 1958;—Am. 1983, Act 97, Imd. Eff. June 23, 1983.

24.4 State laws and legislative manuals to be marked as state property.

Sec. 4. All the volumes of the state laws, legislative manuals and other books, hereafter published and distributed, and required to be retained in any library, or passed over by any officer to his successor in office, shall have marked or branded on both covers thereof the words "State property."

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—CL 1915, 823;—CL 1929, 489;—CL 1948, 24.4.

24.6 Official journals of senate and house; style of type; size of page; maximum number of copies; size of volume; distribution; approval required for additional copies; deposit of surplus supply.

Sec. 6. (1) The official journal of the senate and house of representatives shall be printed in highland type or equivalent, same size of page as that of the journals of 1929, and not to exceed 500 copies shall be printed and bound, in volumes of convenient size, to supply the following with 1 copy each:

(a) Each principal state department.

(b) The members of the legislature of the year when the journals are issued, the secretary, assistant secretary and clerks of the senate, and the clerk and assistant clerks of the house of representatives, and the legislative service bureau.

(c) The library of congress.

(d) The clerk of the state supreme court.

(e) State supported universities or colleges.

(f) Private universities and colleges in this state, upon written request to the secretary of the senate or the clerk of the house of representatives, or both.

(2) Additional copies may be provided to any other governmental officers and agencies and libraries, when approved by the secretary of the senate or the clerk of the house of representatives, or both. The surplus supply shall be deposited with the department of management and budget, to supply future demands.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—CL 1915, 825;—CL 1929, 491;—Am. 1933, Act 3, Imd. Eff. Feb. 13, 1933;—Am. 1939, Act 40, Imd. Eff. Apr. 19, 1939;—CL 1948, 24.6;—Am. 1983, Act 97, Imd. Eff. June 23, 1983.

24.20 State publications; additional copies for use and exchanges by state library.

Sec. 20. There shall be printed of all publications, reports and documents as provided in this act, such additional copies for use and exchanges by the state library as the state librarian may in his discretion deem necessary for such purpose.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—CL 1915, 838;—CL 1929, 504;—CL 1948, 24.20;—Am. 1958, Act 161, Eff. Sept. 13, 1958.

24.30 Michigan manual; number of copies to be published; distribution; price; sale of volumes; creation and administration of Michigan manual fund; disposition and use of money received from sale of Michigan manual.

Sec. 30. (1) The legislative service bureau shall publish sufficient copies of the "Michigan Manual", to be distributed as provided in subsections (2) and (3) and as directed by the legislative council.

(2) The department of management and budget shall deliver 1 copy of the manual to each of the following: senators and representatives in congress from this state; United States circuit and district court judges in this state; justices of the state supreme court; judges of the court of appeals; and the judges of the circuit, district, and probate courts; each district, graded and city public school, and parochial school; each high school, public, private, and parochial, in this state; each public library other than school libraries; and archives that are in, or a part of, public institutions in this state.

(3) The department of management and budget shall also deliver the following number of copies to: the governor, 5; lieutenant governor, 5; secretary of state, 5; state treasurer, 5; auditor general, 5; attorney general, 5; superintendent of public instruction, 5; Michigan public service commission, 1; state tax commission, 1; department of natural resources, 1; financial institutions bureau, department of commerce, 1; department of agriculture, 1; insurance bureau, department of commerce, 1; department of labor, 1; corporation and securities bureau, department of commerce, 1; members of the senate, 25; speaker of the house, 25; members of the house, except speaker, 25; secretary of the senate, 10; clerk of the house, 10; the adjutant general, 1.

(4) The legislative service bureau shall determine a price per volume not to exceed the cost of preparation, printing, and distribution, and the department of management and budget shall sell the volumes not distributed pursuant to subsections (2) and (3).

(5) The Michigan manual fund is created in the state treasury and shall be administered by the legislative council. Any money received from the sale of the Michigan manual shall be deposited with the state treasurer to the credit of the Michigan manual fund and shall be used to pay the costs of preparing, printing, and distributing the Michigan manual.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—CL 1915, 848;—Am. 1917, Act 325, Eff. Aug. 10, 1917;—Am. 1921, Act 105, Eff. Aug. 18, 1921;—CL 1929, 513;—CL 1948, 24.30;—Am. 1951, Act 27, Eff. Sept. 28, 1951;—Am. 1981, Act 46, Imd. Eff. May 13, 1981;—Am. 1986, Act 56, Imd. Eff. Mar. 17, 1986;—Am. 1988, Act 185, Eff. July 1, 1988.

24.33 State publications; distribution by county clerks and superintendents of schools.

Sec. 33. It shall be the duty of the several county clerks and county superintendents of schools, upon receiving any of the books mentioned in this act, to receipt to the secretary of state for the same, which receipt shall be filed and preserved in the office of the secretary of state; and it shall also be the duty of the said county clerks and county superintendents of schools to distribute said books as provided in this act, and to report at the expiration of a month after each reception of books to the secretary of state, on blanks furnished by him, by giving a full statement of all of said books remaining in his office, together with the names of the officers neglecting to call for the books to which they are entitled; and it shall be the duty of all persons, upon receiving any of the books mentioned in this act, to receipt respectively to the county clerk and county superintendent of schools for the same, which receipt shall be filed and preserved in the office of the county clerk and county superintendent of schools respectively. It shall also be the duty of the secretary of state to notify each person to whom any books are sent, except township officers, either directly or in care of the county clerk, which are required by this act to be kept in any library or passed over to any successor in office, and that each person receiving such notice shall, within a reasonable time, apply to the county clerk for the books mentioned in this notice, if such books were sent to the county clerk, and obtain the same; and if such books have been received by the county clerk and are not called for as aforesaid, such person thus notified shall be held responsible in the same manner and to the like extent as in the case of his neglect or refusal to deliver over to his successor books received by him, except that books sent for the use of township officers may be sent to either the township clerk or county clerk, when the secretary of state shall notify the township clerk, who shall draw all of the books for the officers of his township and distribute the same.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—CL 1915, 851;—CL 1929, 516;—CL 1948, 24.33;—Am. 1958, Act 161, Eff. Sept. 13, 1958.

24.34 State officers, delivery of books to successors; damages, penalty; exception.

Sec. 34. Every person or officer who shall receive any of the books distributed by the secretary of state, which are required by this act to be placed in his library, and each city, village, township and county officer, shall, when he ceases to hold such office, deliver over to his successor in office all such books received by him; and any person who shall neglect or refuse to deliver over to his successor in office all such books, received by him as aforesaid, shall be liable to such successor in an action for money had and received to the full amount it shall cost him to furnish himself with such books, and costs of suit; which action shall, on request, be brought and prosecuted by the prosecuting attorney of the county; and any person who shall knowingly and wilfully retain any such books in his possession, or refuse to pass them over to his successor, shall also be subject to a penalty in a sum not exceeding 50 dollars, or be imprisoned in the county jail not exceeding 3 months, or both, in the discretion of the court: Provided, however, That township and county officers receiving the abstract of reports of county superintendents of the poor, of sheriffs, or of the insane, deaf, dumb and blind, shall not be required to pass them over to their successors.

History: 1899, Act 44, Imd. Eff. Apr. 18, 1899;—CL 1915, 852;—CL 1929, 517;—CL 1948, 24.34.

24.37 Michigan compiled laws; distribution; request for additional sets; sale; price.

Sec. 37. (1) A sufficient number of sets of the Michigan compiled laws shall be delivered to the department of management and budget for distribution as follows:

(a) One set to the library of congress.

(b) One set to the governor.

(c) One set to the lieutenant governor.

(d) One set to each member of the legislature.

(e) Forty sets to the secretary of the state senate for use as desk copies by the members of the senate.

(f) One hundred fourteen sets to the clerk of the state house of representatives for use as desk copies by the members of the house of representatives.

(g) One set to the secretary of the state senate.

(h) One set to the clerk of the state house of representatives.

(2) Additional set of the Michigan compiled laws, in the quantities specified in this subsection, shall be distributed by the department of management and budget, upon written request to the legislative service bureau from 1 or more of the following entities:

(a) One set to each justice of the state supreme court.

(b) One set to the clerk of the state supreme court.

(c) One set to the reporter of the state supreme court.

(d) Four sets to the court administrator's office.

(e) One set to each judge of every court of this state.

(f) One set to each prosecuting attorney.

(g) One set to each county law library.

(h) One set to the county board of commissioners of each county, which set shall be located in the county courthouse and available to the public.

(i) One set to each state supported university or college.

(j) One set to each private university or college of this state which is accredited by the north central association of colleges and secondary schools.

(k) Two hundred fifty sets to the state library for use in the library and for exchanges.

(*l*) A number of sets as determined by the legislative service bureau for use in the executive office of the governor, each state department, the legislative council and offices, councils, bureaus, and committees of the legislature.

(3) The department of management and budget may sell sets of the Michigan compiled laws at a price determined by the legislative service bureau.

History: Add. 1958, Act 161, Eff. Sept. 13, 1958;—Am. 1962, Act 85, Eff. Mar. 28, 1963;—Am. 1964, Act 66, Imd. Eff. May 12, 1964;—Am. 1972, Act 369, Imd. Eff. Jan. 9, 1973;—Am. 1983, Act 97, Imd. Eff. June 23, 1983.

Compiler's note: Near the beginning of subsection (2), "set" evidently should read "sets".

ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)

Act 306 of 1969

AN ACT to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of the Michigan register; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to provide for declaratory judgments as to rules; and to repeal certain acts and parts of acts.

History: 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984.

The People of the State of Michigan enact:

CHAPTER 3. PROCEDURES FOR PROCESSING AND PUBLISHING RULES

24.259 Copies of Michigan register, Michigan administrative code, and code supplements; number; distribution; official use; retention of copies by legislators; duties of department of management and budget; subscription to Michigan register; price.

Sec. 59. (1) The legislative service bureau shall print or order printed a sufficient number of copies of the Michigan register, the Michigan administrative code, and the annual supplement to the code to meet the requirements of this section. The department of management and budget shall deliver or mail copies as follows:

(a) To the secretary of the senate, a sufficient number to supply each senator, standing committee, and the secretary.

(b) To the clerk of the house of representatives, a sufficient number to supply each representative, standing committee, and the clerk.

(c) To each member of the legislature, 1 copy at the member's home address.

(d) To the legislative service bureau, 1 copy for each attorney on the bureau's staff.

(e) To the department of the attorney general, 1 copy for each division.

(f) To each other state department, 3 copies.

(g) To each county law library, bar association library, and law school library in this state, 1 copy.

(h) To other libraries throughout this state, 1 copy, upon request.

(i) Additional copies to an officer or agency of this state and other governmental officers, agencies, and libraries approved by the legislative service bureau; and additional copies of the Michigan register for persons who subscribe to the publication as provided in subsection (3).

(2) The copies of the Michigan register, the Michigan administrative code, and the annual code supplement are for official use only by the agencies and persons prescribed in subsection (1), and they shall deliver them to their successors, except that members of the legislature may retain copies of the Michigan register and the Michigan administrative code sent to their home address. The department of management and budget shall send to the home address of a new member of the legislature the current volume of the Michigan register and a complete copy of the Michigan administrative code. The department of management and budget shall deliver to the state library the Michigan register, the Michigan administrative code, and the annual supplement when requested by the state library sufficient for the library's use and for exchanges. The department of management and budget shall hold additional copies for sale at a price not less than the publication and distribution costs which shall be determined by the legislative service bureau.

(3) A person may subscribe to the Michigan register. The legislative service bureau shall determine a subscription price which shall not be more than the publication and distribution costs.

History: 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986.

SUPREME COURT REPORTS (EXCERPTS)

Act 385 of 1927

AN ACT to provide for the publication, reproduction, printing, binding, distribution and sale of the reports of decisions of the supreme court of Michigan and the advance sheets of such reports of decisions.

History: 1927, Act 385, Eff. Sept. 5, 1927;—Am. 1948, 1st Ex. Sess., Act 15, Imd. Eff. Apr. 28, 1948.

The People of the State of Michigan enact:

26.8 Supreme court reporter, duties; size of volumes; original plates to be state property.

Sec. 8. The supreme court reporter shall, as soon as practicable, after the decisions of the supreme court are announced, furnish and deliver to the person or corporation having the contract with the state for publishing the same, copies of such decisions, with a syllabus and brief statement of the case, and a proper index and digest of such decisions to be published in and as part of such volumes. Each of said volumes shall contain not less than 700 pages, unless printed on thin paper as provided for in section 10 of this act, to be electrotyped, printed and bound in a good and substantial manner and form, of good material for law books, and printed in not larger type, set in the same manner, and of the same style and quality as volume 234 of the Michigan reports in the state library at Lansing, and to be approved and accepted by the justices of the supreme court, or a majority of them. The original electrotyped plates shall be at all times the property of this state, subject to the right of such contractor to use the same during the term of his contract or until the same shall be declared forfeited as herein provided.

History: 1927, Act 385, Eff. Sept. 5, 1927;—CL 1929, 530;—CL 1948, 26.8.

26.12 Delivery of copies to state librarian by contractor.

Sec. 12. Such contractor shall, within 60 days after receiving the final manuscripts of any volume from the reporter, deliver to the state librarian at Lansing, free of cost for publication or delivery, 375 copies of the Michigan reports and 25 copies of the advance sheets of Michigan reports, in good order and according to contract, to be distributed by the state librarian as authorized in writing from time to time by the justices of the supreme court.

History: 1927, Act 385, Eff. Sept. 5, 1927;—CL 1929, 534;—CL 1948, 26.12.

SALE OR EXCHANGE OF SUPREME COURT REPORTS

Act 174 of 1871

AN ACT to provide for the appointment of a state reporter.

History: 1871, Act 174, Eff. Jan. 1, 1872.

The People of the State of Michigan enact:

26.47 State librarian; authority to exchange or sell reports; bond; printing of new editions.

Sec. 7. The state librarian may exchange any of said reports for such other reports or law books as shall be approved by the chief justice of the supreme court, which reports or other books, procured by such exchange, shall be kept in the state library. After the publication of any volume under the provisions of this act the state librarian may sell the same at a price per volume not exceeding the actual cost to the state of publication thereof, to be determined by the board of state auditors, and 20 per cent added thereto. The state librarian shall give a bond in the penal sum of 5,000 dollars to the state, conditioned for the faithful performance of the duties imposed by this act. He shall keep an account of all moneys received by him for said reports, and shall pay the same monthly to the state treasurer, who shall credit the same to the general fund. In case of sales to any 1 person at 1 time of 25 volumes or over, the 20 per cent aforesaid may be deducted from the selling price of such volumes. When the edition of any volume authorized to be sold by the state librarian, shall be exhausted a new edition of the same number of volumes shall be printed, bound, and sold, as provided in this act relative to the first edition.

History: 1871, Act 174, Eff. Jan. 1, 1872;—CL 1871, 5657;—Am. 1873, Act 137, Eff. July 31, 1873;—How. 7201;—CL 1897, 229;—CL 1915, 874;—CL 1929, 543;—CL 1948, 26.47.

Compiler's note: This section was expressly excepted from the repeal of Ch. 21 of CL 1897 by Act 314 of 1915, being §681.1.

Uncompiled sections: Sections 1-6 and 8-10 of this act were not compiled.

FURNISHING CERTAIN COUNTIES WITH LAWS AND REPORTS

Act 190 of 1909

AN ACT in relation to the distribution of the Compiled Laws of 1897, and of the reports and decisions of the supreme court.

History: 1909, Act 190, Eff. Sept. 1, 1909.

The People of the State of Michigan enact:

26.51 Compiled Laws of 1897, subsequent legislation, and all Michigan reports; distribution to county clerks by state librarian.

Sec. 1. In all counties in which circuit court is held in more than 1 place, it shall be the duty of the secretary of state to furnish to the county clerk of such county, for the use of said circuit court, 1 complete set of the Compiled Laws of 1897, together with the index thereof and acts passed by the legislature subsequent to 1897, and the state librarian shall furnish 1 complete set of the Michigan supreme court reports: Provided, That if for any reason the state librarian shall be unable to furnish any of the volumes of said reports, the board of state auditors is hereby authorized, and it is its duty, to purchase such missing volumes to complete such set: Provided further, It shall be the duty of the state librarian to furnish from time to time to said county clerk, the current volumes of Michigan supreme court reports as they are issued.

History: 1909, Act 190, Eff. Sept. 1, 1909;—CL 1915, 875;—CL 1929, 544;—CL 1948, 26.51.

MICHIGAN HANDICAPPERS' CIVIL RIGHTS ACT

Act 220 of 1976

AN ACT to define the civil rights of individuals who have handicaps; to prohibit discriminatory practices, policies, and customs in the exercise of those rights; to prescribe penalties and to provide remedies; and to provide for the promulgation of rules.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1992, Act 123, Imd. Eff. June 29, 1992.

The People of the State of Michigan enact:

ARTICLE 1

37.1101 Short title.

Sec. 101. This act shall be known and may be cited as the "Michigan handicappers' civil rights act".

History: 1976, Act 220, Eff. Mar. 31, 1977.

Cited in other sections: Section 37.1101 et seq. is cited in §§37.2605 and 554.633.

37.1102 Opportunity guaranteed; civil right; accommodation of handicapper; undue hardship.

Sec. 102. (1) The opportunity to obtain employment, housing, and other real estate and full and equal utilization of public accommodations, public services, and educational facilities without discrimination because of a handicap is guaranteed by this act and is a civil right.

(2) Except as otherwise provided in article 2, a person shall accommodate a handicapper for purposes of employment, public accommodation, public service, education, or housing unless the person demonstrates that the accommodation would impose an undue hardship.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1990, Act 121, Imd. Eff. June 25, 1990.

Cited in other sections: Section 37.1102 is cited in §37.2506a.

37.1103 Definitions.

Sec. 103. As used in this act:

(a) "Alcoholic liquor" means that term as defined in section 2 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2 of the Michigan Compiled Laws.

(b) "Commission" means the civil rights commission established by section 29 of article V of the state constitution of 1963.

(c) "Controlled substance" means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(d) "Drug" means that term as defined in section 7105 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7105 of the Michigan Compiled Laws.

(e) Except as provided under subdivision (f), "handicap" means 1 or more of the following:

(*i*) A determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic:

(A) For purposes of article 2, substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual's ability to perform the duties of a particular job or position or substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual's qualifications for employment or promotion.

(B) For purposes of article 3, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation or public service.

(C) For purposes of article 4, is unrelated to the individual's ability to utilize and benefit from educational opportunities, programs, and facilities at an educational institution.

(D) For purposes of article 5, substantially limits 1 or more of that individual's major life activities and is unrelated to the individual's ability to acquire, rent, or maintain property.

(*ii*) A history of a determinable physical or mental characteristic described in subparagraph (*i*).

(*iii*) Being regarded as having a determinable physical or mental characteristic described in subparagraph (*i*).

(f) For purposes of article 2, "handicap" does not include either of the following:

(*i*) A determinable physical or mental characteristic caused by the current illegal use of a controlled substance by that individual.

(*ii*) A determinable physical or mental characteristic caused by the use of an alcoholic liquor by that individual, if that physical or mental characteristic prevents that individual from performing the duties of his or her job.

(g) "Handicapper" means an individual who has a handicap.

(h) "Person" includes an individual, agent, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, this state, or any other legal, commercial, or governmental entity or agency.

(i) "Political subdivision" means a county, city, village, township, school district, or special district or authority of this state.

(j) "State average weekly wage" means the state average weekly wage as determined by the Michigan employment security commission under section 27 of Act No. 1 of the Public Acts of the Extra Session of 1931, being section 421.27 of the Michigan Compiled Laws.

(k) "Temporary employee" means an employee hired for a position that will not exceed 90 days in duration.

(*l*) "Unrelated to the individual's ability" means, with or without accommodation, an individual's handicap does not prevent the individual from doing 1 or more of the following:

(*i*) For purposes of article 2, performing the duties of a particular job or position.

(*ii*) For purposes of article 3, utilizing and benefiting from a place of public accommodation or public service.

(*iii*) For purposes of article 4, utilizing and benefiting from educational opportunities, programs, and facilities at an educational institution.

(*iv*) For purposes of article 5, acquiring, renting, or maintaining property.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1990, Act 121, Imd. Eff. June 25, 1990;—Am. 1992, Act 123, Imd. Eff. June 29, 1992.

Cited in other sections: Section 37.1103 is cited in §§38.1369e and 168.504.

ARTICLE 2

37.1201 Definitions.

Sec. 201. As used in this article:

(a) "Employee" does not include an individual employed in domestic service of any person.

(b) "Employer" means a person who has 1 or more employees or a person who as contractor or subcontractor is furnishing material or performing work for the state or a governmental entity or agency of the state and includes an agent of such a person.

(c) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) "Labor organization" includes:

(*i*) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(*ii*) A conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization.

(*iii*) An agent of a labor organization.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1202 Employer; prohibited conduct; exception.

Sec. 202. (1) An employer shall not:

(a) Fail or refuse to hire, recruit, or promote an individual because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

(b) Discharge or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

(c) Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive an individual of employment opportunities or otherwise adversely affects the status of an employee because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

(d) Fail or refuse to hire, recruit, or promote an individual on the basis of physical or mental examinations that are not directly related to the requirements of the specific job.

(e) Discharge or take other discriminatory action against an individual on the basis of physical or mental examinations that are not directly related to the requirements of the specific job.

(f) Fail or refuse to hire, recruit, or promote an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.

(g) Discharge or take other discriminatory action against an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.

(2) This section shall not apply to the employment of an individual by his parent, spouse, or child.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1203 Employment agency; prohibited conduct.

Sec. 203. An employment agency shall not fail or refuse to refer for employment, or otherwise discriminate against an individual because of a handicap or classify or refer for employment an individual on the basis of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1204 Labor organization; prohibited conduct.

Sec. 204. A labor organization shall not:

(a) Exclude or expel from membership, or otherwise discriminate against a member or applicant for membership because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position which entitles the individual to membership.

(b) Limit, segregate, or classify membership, or applicants for membership, or classify or fail or refuse to refer for employment an individual in a way which would deprive or tend to deprive an individual of employment opportunities, or which would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

(c) Cause or attempt to cause an employer to violate this article.

(d) Fail to fairly and adequately represent a member in a grievance process because of the member's handicap.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1205 Apprenticeship, on the job, or other training or retraining programs; discrimination prohibited.

Sec. 205. An employer, labor organization, or joint labor management committee controlling apprenticeship, on the job, or other training or retraining programs shall not discriminate against an individual because of a handicap in admission to, or employment or continuation in, a program established to provide apprenticeship or other training.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1206 Prohibited notices, advertisements, inquiries, applications, and records.

Sec. 206. (1) An employer, labor organization, or employment agency shall not print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification, or discrimination, based on a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.

(2) Except as permitted by applicable federal law, an employer or employment agency shall not:

(a) Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the handicap of a prospective employee for reasons contrary to the provisions or purposes of this act.

(b) Make or keep a record of information or disclose information concerning the handicap of a prospective employee for reasons contrary to the provisions or purposes of this act.

(c) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, or specification based on the handicap of a prospective employee for reasons contrary to the provisions or purposes of this act.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1207 Repealed. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

Compiler's note: The repealed section pertained to exemptions.

37.1208 Plan.

Sec. 208. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have handicaps if the plan has been filed with the commission under rules of the commission and the commission has not disapproved the plan.

History: 1976, Act 220, Eff. Mar 31, 1977.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

37.1209 Contract to which state a party; convenant not to discriminate against employee or applicant for employment; breach.

Sec. 209. A contract to which this state, or a political subdivision, or an agency of this state or of a political subdivision of this state is a party shall contain a covenant by the contractor and any subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of this covenant shall be regarded as a material breach of the contract.

History: Add. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1210 Burden of proof; cost of accommodation as undue hardship; reduction of limitations; restructuring job or altering schedule; applicability of subsections (2) to (16); violation; notices.

Sec. 210. (1) In an action brought pursuant to this article for a failure to accommodate, the handicapper shall bear the burden of proof. If the handicapper proves a prima facie case, the person shall bear the burden of producing evidence that an accommodation would impose an undue hardship on that person. If the person produces evidence that an accommodation would impose an undue hardship on that person, the handicapper shall bear the burden of proving by a preponderance of the evidence that an accommodation would not impose an undue hardship on that person.

(2) Except as provided in subsections (7), (13), and (17), if the person employs fewer than 4 employees and is required under this article to purchase any equipment or device to accommodate the handicapper, the total purchase cost required to be paid by that person for that equipment or device is limited to an amount equal to the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(3) Except as provided in subsections (7), (13), and (17), if the person employs 4 or more employees but fewer than 15 employees and is required under this article to purchase any equipment or device to accommodate the handicapper, the total purchase cost required to be paid by that person is limited to an amount equal to 1.5 times the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(4) Except as provided in subsections (6), (7), (13), and (17), if the person employs 15 or more employees but fewer than 25 employees and is required under this article to purchase any equipment or device to accommodate the handicapper, the total purchase cost required to be paid by that person is limited to an amount equal to 2.5 times the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(5) Except as provided in subsections (6), (7), (13), and (17), if the person employs 25 or more employees and the total purchase cost of any equipment or device required to accommodate an employee under this article is equal to or less than 2.5 times the state average weekly wage, the accommodation does not impose an undue hardship on that person.

(6) If Senate Bill No. 933 or House Bill No. 2273 of the 101st Congress of the United States is enacted into law, and beginning 2 years after the effective date of that law, except as provided in subsections (7), (13), and (17), if the person employs 15 or more employees and the total purchase cost of any equipment or device required to accommodate an employee under this article is equal to or less than 2.5 times the state average weekly wage, the accommodation does not impose an undue hardship on that person.

(7) Subsections (2) to (6) do not limit the cost of reasonable routine maintenance or repair of equipment or devices needed to accommodate a handicapper under this article.

(8) Except as provided in subsections (13) and (17), if the person employs fewer than 4 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the handicapper in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 7 times the state average weekly wage for the first year the handicapper is hired, promoted, or transferred to that job, and 5 times the state average weekly wage for each year after the first year the handicapper is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(9) Except as provided in subsections (13) and (17), if the person employs 4 or more employees but fewer than 15 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the handicapper in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 10 times the state average weekly wage for the first year the handicapper is hired, promoted, or transferred to that job, and 7 times the state average weekly wage for each year after the first year the handicapper is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(10) Except as provided in subsections (12), (13), and (17), if the person employs 15 or more employees but fewer than 25 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the handicapper in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 15 times the state average weekly wage for the first year the handicapper is hired, promoted, or transferred to that job, and 10 times the state average weekly wage for each year after the first year the handicapper is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the

accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

(11) Except as provided in subsections (12), (13), and (17), if the person employs 25 or more employees and the cost required to hire or retain 1 or more individuals as readers or interpreters to accommodate the handicapper in performing the duties of his or her job is less than or equal to 15 times the state average weekly wage for the first year the handicapper is hired, promoted, or transferred to that job, and is less than or equal to 10 times the state average weekly wage for each year after the first year the handicapper is hired, promoted, or transferred to that job, the accommodation does not impose an undue hardship on that person.

(12) If Senate Bill No. 933 or House Bill No. 2273 of the 101st Congress of the United States is enacted into law, and beginning 2 years after the effective date of that law, except as provided in subsections (13) and (17), if the person employs 15 or more employees and the cost required to hire or retain 1 or more individuals as readers or interpreters to accommodate the handicapper in performing the duties of his or her job is less than or equal to 15 times the state average weekly wage for the first year the handicapper is hired, promoted, or transferred to that job, and is less than or equal to 10 times the state average weekly wage for each year after the first year the handicapper is hired, promoted, or transferred to that job, the accommodation does not impose an undue hardship on that person.

(13) If the handicapper is a temporary employee, the limitations established for accommodations under subsections (2), (3), (4), (5), (6), (8), (9), (10), (11), and (12) are reduced by 50%.

(14) A person who employs fewer than 15 employees is not required to restructure a job or alter the schedule of employees as an accommodation under this article.

(15) Job restructuring and altering the schedule of employees under this article applies only to minor or infrequent duties relating to the particular job held by the handicapper.

(16) If a person can accommodate a handicapper under this article only by purchasing equipment or devices and hiring or retaining 1 or more individuals as readers or interpreters, the person shall, subject to subsections (2) to (13) and subsection (17), purchase the equipment or devices and hire or retain 1 or more individuals as readers or interpreters to accommodate that handicapper. However, if the person can accommodate that handicapper by purchasing equipment or devices or by hiring or retaining 1 or more individuals as readers or interpreters, the person shall consult the handicapper and, subject to subsections (2) to (13) and subsection (17), choose whether to purchase equipment or devices or hire or retain 1 or more individuals as readers or interpreters.

(17) Subsections (2) to (16) do not apply to either of the following:

(a) A public employer. As used in this subdivision, "public employer" means this state or a political subdivision of this state.

(b) An organization exempt from taxation under section 501(c)(3) of the internal revenue code.

(18) A handicapper may allege a violation against a person regarding a failure to accommodate under this article only if the handicapper notifies the person in writing of the need for accommodation within 182 days after the date the handicapper knew or reasonably should have known that an accommodation was needed.

(19) A person shall post notices or use other appropriate means to provide all employees and job applicants with notice of the requirements of subsection (18).

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1211 Powers of person under article.

Sec. 211. A person may, under this article, do 1 or more of the following:

(a) Establish employment policies, programs, procedures, or work rules regarding the use of alcoholic liquor or the illegal use of drugs.

(b) Apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, transfer system, scheduling system, assignment system, or attendance plan if those standards of compensation or terms, conditions, or privileges of employment are not a subterfuge to evade the purposes of this article.

(c) Establish uniform policies requiring employees who have been absent from work because of illness or injury to submit evidence of the ability to return to work. This subdivision does not allow a person to establish a policy requiring only handicappers to submit evidence of the ability to return to work.

(d) Either of the following:

(*i*) Prohibit an employee who is being compensated under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, for an injury arising out of and in the course of his or her employment with that person from returning to work in a restructured job.

(*ii*) Require an employee who is being compensated under Act No. 317 of the Public Acts of 1969 for an injury arising out of and in the course of his or her employment with that person to return to work as provided by law, if the person accommodates the employee as required under this article.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1212 Education and training programs.

Sec. 212. The department of civil rights shall offer education and training programs to employers, labor organizations, and employment agencies to assist employers, labor organizations, and employment agencies in understanding the requirements of this article.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1213 Article not in conflict with civil rights act.

Sec. 213. Nothing in this article shall be construed to conflict with the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

37.1214 Accommodation not construed as preferential treatment or employee benefit.

Sec. 214. For purposes of this act, an accommodation required under this article shall not be construed to be preferential treatment or an employee benefit.

History: Add. 1990, Act 121, Imd. Eff. June 25, 1990.

ARTICLE 3

37.1301 Definitions.

Sec. 301. As used in this article:

(a) "Place of public accommodation" means a business, educational institution, refreshment, entertainment, recreation, health, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

(b) "Public service" means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of this state or a subdivision of this state, a county, city, village, township, or independent or regional district in this state, or a tax exempt private agency established to provide service to the public.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

Cited in other sections: Section 37.1301 is cited in §750.470.

37.1302 Prohibited conduct.

Sec. 302. Except where permitted by law, a person shall not:

(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service because of a handicap that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.

(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of a handicap that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a handicap that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1303 Exemptions.

Sec. 303. This article shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation, or if it is licensed, chartered, or certified by the state or any of its political subdivisions.

History: 1976, Act 220, Eff. Mar. 31, 1977.

ARTICLE 4

37.1401 "Educational institution" defined.

Sec. 401. As used in this article, "educational institution" means a public or private institution or a separate school or department of a public or private institution, includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, school district, or university, and a business, nursing, professional, secretarial, technical, or vocational school, and includes an agent of an educational institution.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1402 Educational institution; prohibited conduct.

Sec. 402. An educational institution shall not do any of the following:

(a) Discriminate in any manner in the full utilization of or benefit from the institution, or the services provided and rendered by the institution to an individual because of a handicap that is unrelated to the individual's ability to utilize and benefit from the institution or its services, or because of the use by an individual of adaptive devices or aids.

(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, because of a handicap that is unrelated to the individual's ability to utilize and benefit from the institution, or because of the use by an individual of adaptive devices or aids.

(c) Make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or make or keep a record, concerning the handicap of an applicant for admission for reasons contrary to the provisions or purposes of this act.

(d) Print or publish or cause to be printed or published a catalog or other notice or advertisement indicating a preference, limitation, specification, or discrimination based on the handicap of an applicant that is unrelated to the applicant's ability to utilize and benefit from the institution or its services, or the use of adaptive devices or aids by an applicant for admission to the educational institution.

(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of a handicap that is unrelated to the group or member's ability to utilize and benefit from the institution or its services, or because of the use by the members of a group or an individual in the group of adaptive devices or aids.

(f) Develop a curriculum or utilize textbooks and training or learning materials which promote or foster physical or mental stereotypes.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1403 Plan.

Sec. 403. An educational institution may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have handicaps if the plan is filed with the commission, under rules of the commission and the commission has not disapproved the plan.

History: 1976, Act 220, Eff. Mar. 31, 1977.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

ARTICLE 5

37.1501 Definitions.

Sec. 501. As used in this article:

(a) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of 1 or more persons.

(b) "Immediate family" means a spouse, parent, child, or sibling.

(c) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these persons.

(d) "Real estate transaction" means the sale, exchange, rental, or lease of real property, or an interest therein.

(e) "Real property" includes a building, structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1502 Owners, persons engaging in real estate transactions, real estate brokers, and real estate salesmen; prohibited conduct.

Sec. 502. (1) An owner or any other person engaging in a real estate transaction, or a real estate broker or salesman shall not, on the basis of a handicap of a buyer or renter, of a person residing in or intending to reside in a dwelling after it is sold, rented, or made available, or of any person associated with that buyer or renter, that is unrelated to the individual's ability to acquire, rent, or maintain property or use by an individual of adaptive devices or aids:

(a) Refuse to engage in a real estate transaction with a person.

(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(c) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction from a person.

(d) Refuse to negotiate for a real estate transaction with a person.

(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, fail to bring a property listing to a person's attention, refuse to permit a person to inspect real property, or otherwise deny or make real property unavailable to a person.

(f) Make, print, circulate, post, or mail or cause to be made or published a statement, advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect to a real estate transaction.

(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(h) Discriminate against a person in the brokering or appraising of real property.

(2) A person shall not deny a person access to or membership or participation in a multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting real property, or discriminate against a person in the terms or conditions of that access, membership, or participation.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1992, Act 123, Imd. Eff. June 29, 1992.

37.1503 Certain rentals excepted from §37.1502.

Sec. 503. Section 502 shall not apply to the rental of a housing accommodation in a building which contains housing accommodations for not more than 2 families living independently of each other, if the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to the rental of a room or rooms in a single housing dwelling by a person if the lessor or a member of the lessor's immediate family resides therein.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1504 Financial assistance or financing; prohibited conduct.

Sec. 504. A person shall not discriminate on the basis of handicap in making or purchasing loans for acquiring, constructing, improving, repairing, or maintaining real property, or in providing other financial assistance secured by or otherwise related to real property.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1992, Act 123, Imd. Eff. June 29, 1992.

37.1505 Information as to applicant's credit worthiness.

Sec. 505. Nothing in this article shall be deemed to prohibit an owner, lender, or his agent from requiring that an applicant who seeks to buy, rent, lease, or obtain financial assistance for housing accommodations supply information concerning the applicant's financial, business, or employment status or other information designed solely to determine the applicant's credit worthiness, but not concerning handicaps for reasons contrary to the provisions or purposes of this act.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1506 Prohibited representations.

Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which he may benefit financially or otherwise, that a change has occurred or will or may occur in the composition with respect to handicappers of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1506a Real estate transaction; prohibited conduct; "covered multifamily dwellings" defined.

Sec. 506a. (1) A person shall not do any of the following in connection with a real estate transaction:

(a) Refuse to permit, at the expense of the handicapper, reasonable modifications of existing premises occupied or to be occupied by the handicapper if those modifications may be necessary to afford the handicapper full enjoyment of the premises. In the case of a rental, the landlord may, if reasonable, make permission for a modification contingent on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(b) Refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the handicapper equal opportunity to use and enjoy residential real property.

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, fail to include all of the following features:

(*i*) The dwellings have at least 1 building entrance on an accessible route, unless that is impractical because of the terrain or unusual characteristics of the site.

(*ii*) The public and common use portions of the dwellings are readily accessible to and usable by handicappers.

(*iii*) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicappers in wheelchairs.

(*iv*) All premises within covered multifamily dwellings contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and kitchens and bathrooms designed so that an individual in a wheelchair can maneuver about the space.

(2) As used in this section, "covered multifamily dwellings" means buildings consisting of 4 or more units if the buildings have 1 or more elevators, and ground floor units in other buildings consisting of 4 or more units.

History: Add. 1992, Act 123, Imd. Eff. June 29, 1992.

37.1507 Plan.

Sec. 507. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have handicaps, if the plan is filed with the commission under rules of the commission and the commission has not disapproved the plan.

History: 1976, Act 220, Eff. Mar. 31, 1977.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

ARTICLE 6

37.1601 Administration of act; rules.

Sec. 601. This act shall be administered by the civil rights commission. The commission may promulgate rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1602 Prohibited conduct.

Sec. 602. A person or 2 or more persons shall not do the following:

(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.

(b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.

(c) Attempt directly or indirectly to commit an act prohibited by this act.

(d) Willfully interfere with the performance of a duty or the exercise of a power by the commission or any of its authorized representatives.

(e) Willfully obstruct or prevent a person from complying with this act or an order issued.

(f) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by article 5.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1992, Act 123, Imd. Eff. June 29, 1992.

37.1603 Adjustment order; violation of terms prohibited.

Sec. 603. A person shall not violate the terms of an adjustment order made under this act.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1604 Other acts not invalidated.

Sec. 604. Nothing in this act shall be interpreted as invalidating any other act that establishes or provides programs or services for individuals with handicaps.

History: 1976, Act 220, Eff. Mar. 31, 1977.

37.1605 Complaints.

Sec. 605. A complaint alleging an act prohibited by this act shall be subject to the same procedures as a complaint alleging an unfair employment practice under Act No. 453 of the Public Acts of 1976, as amended, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

History: 1976, Act 220, Eff. Mar. 31, 1977;—Am. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

37.1606 Civil action; commencement; "damages" defined; compensation for lost wages; notice as condition to bringing civil action; applicability of subsection (5).

Sec. 606. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his or her principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorneys' fees.

(4) The amount of compensation awarded for lost wages under this act for an injury under article 2 shall be reduced by the amount of compensation received for lost wages under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, for that injury and by the present value of the future compensation for lost wages to be received under Act No. 318 of the Public Acts of 1969 for that injury.

(5) A handicapper may not bring a civil action under subsection (1) for a failure to accommodate under article 2 unless he or she has notified the person of the need for accommodation as required under section 210(18). This subsection does not apply if the person failed to comply with the requirements of section 210(19).

History: Add. 1980, Act 478, Imd. Eff. Jan. 20, 1981;—Am. 1990, Act 121, Imd. Eff. June 25, 1990.

Compiler's note: In subsection (4), the reference "Act No. 318" evidently should be "Act No. 317."

37.1607 Diminishment of rights prohibited.

Sec. 607. This act shall not diminish the right of a person to seek direct and immediate legal or equitable remedies in the courts of this state.

History: Add. 1980, Act 478, Imd. Eff. Jan. 20, 1981.

ELLIOTT-LARSEN CIVIL RIGHTS ACT

Act 453 of 1976

AN ACT to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; to provide for fees; and to repeal certain acts and parts of acts.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1977, Act 162, Imd. Eff. Nov. 8, 1977;—Am. 1979, Act 91, Imd. Eff. Aug. 1, 1979;—Am. 1982, Act 45, Eff. Mar. 30, 1983;—Am. 1992, Act 124, Imd. Eff. June 29, 1992;—Am. 1992, Act 258, Imd. Eff. Dec. 7, 1992.

The People of the State of Michigan enact:

ARTICLE 1

37.2101 Short title.

Sec. 101. This act shall be known and may be cited as the "Elliott-Larsen civil rights act".

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1977, Act 162, Imd. Eff. Nov. 8, 1977.

Cited in other sections: Section 37.2101 et seq. is cited in §§37.1213, 37.1605, 257.803m, 554.633, and 554.652.

37.2102 Recognition and declaration of civil right; action arising out of discrimination based on sex or familial status.

Sec. 102. (1) The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status as prohibited by this act, is recognized and declared to be a civil right.

(2) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of sex discrimination before July 18, 1980 which action is based on conduct similar to or identical to harassment.

(3) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of discrimination based on familial status before the effective date of the amendatory act that added this subsection which action is based on conduct similar to or identical to discrimination because of the age of persons residing with the individual bringing or continuing the action.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1979, Act 91, Imd. Eff. Aug. 1, 1979;—Am. 1980, Act 202, Imd. Eff. July 18, 1980;—Am. 1982, Act 45, Eff. Mar. 30, 1983;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2103 Definitions.

Sec. 103. As used in this act:

(a) "Age" means chronological age except as otherwise provided by law.

(b) "Commission" means the civil rights commission established by section 29 of article 5 of the state constitution of 1963.

(c) "Commissioner" means a member of the commission.

(d) "Department" means the department of civil rights or its employees.

(e) "Familial status" means 1 or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.

(f) "National origin" includes the national origin of an ancestor.

(g) "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal or commercial entity.

(h) "Political subdivision" means a county, city, village, township, school district, or special district or authority of the state.

(i) Discrimination because of sex includes sexual harassment which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

(*i*) Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing.

(*ii*) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or public services, education, or housing.

(*iii*) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1980, Act 202, Imd. Eff. July 18, 1980;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

ARTICLE 2

37.2201 Definitions.

Sec. 201. As used in this article:

(a) "Employer" means a person who has 1 or more employees, and includes an agent of that person.

(b) "Employment agency" means a person regularly undertaking with or without compensation to procure, refer, recruit, or place an employee for an employer or to procure, refer, recruit, or place for an employer or person the opportunity to work for an employer and includes an agent of that person.

(c) "Labor organization" includes:

(*i*) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(*ii*) A conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization.

(*iii*) An agent of a labor organization.

(d) "Sex" includes, but is not limited to, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth that does not include nontherapeutic abortion not intended to save the life of the mother.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1978, Act 153, Imd. Eff. May 22, 1978;—Am. 1980, Act 202, Imd. Eff. July 18, 1980.

37.2202 Employer; prohibited practices; construction; nonapplicability.

Sec. 202. (1) An employer shall not do any of the following:

(a) Fail or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(b) Limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive the employee or applicant of an employment opportunity, or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(c) Segregate, classify, or otherwise discriminate against a person on the basis of sex with respect to a term, condition, or privilege of employment, including, but not limited to, a benefit plan or system.

(d) Until January 1, 1994, require an employee of an institution of higher education who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, to retire from employment on the basis of the employee's age. As used in this subdivision, "institution of higher education" means a public or private university, college, community college, or junior college located in this state.

(2) This section shall not be construed to prohibit the establishment or implementation of a bona fide retirement policy or system that is not a subterfuge to evade the purposes of this section.

(3) This section does not apply to the employment of an individual by his or her parent, spouse, or child.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1978, Act 153, Imd. Eff. May 22, 1978;—Am. 1991, Act 11, Eff. May 1, 1991.

37.2203 Employment agency; prohibited practices generally.

Sec. 203. An employment agency shall not fail or refuse to procure, refer, recruit, or place for employment, or otherwise discriminate against, an individual because of religion, race, color, national origin, age, sex, height, weight, or marital status; or classify or refer for employment an individual on the basis of religion, race, color, national origin, age, sex, height, weight, or marital status.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2204 Labor organization; prohibited practices generally.

Sec. 204. A labor organization shall not:

(a) Exclude or expel from membership, or otherwise discriminate against, a member or applicant for membership because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(b) Limit, segregate, or classify membership or applicants for membership, or classify or fail or refuse to refer for employment an individual in a way which would deprive or tend to deprive that individual of an employment opportunity, or which would limit an employment opportunity, or which would adversely affect wages, hours, or employment conditions, or otherwise adversely affect the status of an employee or an applicant for employment, because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(c) Cause or attempt to cause an employer to violate this article.

(d) Fail to fairly and adequately represent a member in a grievance process because of religion, race, color, national origin, age, sex, height, weight, or marital status.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2205 Employer, labor organization, or joint labor-management committee; training programs; prohibited practices.

Sec. 205. An employer, labor organization, or joint labor-management committee controlling an apprenticeship, on the job, or other training or retraining program, shall not discriminate against an individual because of religion, race, color, national origin, age, sex, height, weight, or marital status, in admission to, or employment or continuation in, a program established to provide apprenticeship on the job, or other training or retraining.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2205a Employer, employment agency, or labor organization; record of information regarding arrest, detention, or disposition of violation of law where no conviction; failure to recite or acknowledge information.

Sec. 205a. (1) An employer, employment agency, or labor organization, other than a law enforcement agency of the state or a political subdivision of the state, shall not in connection with an application for employment, personnel, or membership, or in connection with the terms, conditions, or privileges or employment, personnel, or membership request, make, or maintain a record of information regarding an arrest, detention, or disposition of a violation of law in which a conviction did not result. A person shall not be held guilty of perjury or otherwise giving a false statement by failing to recite or acknowledge information the person has a civil right to withhold by this section. This section shall not apply to information relative to a felony charge before conviction or dismissal.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1978, Act 610, Eff. Mar. 30, 1979;—Am. 1982, Act 45, Eff. Mar. 30, 1983.

37.2205b Repealed. 1982, Act 45, Eff. Mar. 30, 1983.

Compiler's note: The repealed section pertained to announcing availability of polygraph examination.

37.2206 Employer, labor organization, or employment agency; prohibited practices.

Sec. 206. (1) An employer, labor organization, or employment agency shall not print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign relating to employment by the employer, or relating to membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, which indicates a preference, limitation, specification, or discrimination, based on religion, race, color, national origin, age, sex, height, weight, or marital status.

(2) Except as permitted by rules promulgated by the commission or by applicable federal law, an employer or employment agency shall not:

(a) Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, height, weight, or marital status of a prospective employee.

(b) Make or keep a record of information described in subdivision (a) or to disclose that information.

(c) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, specification, or discrimination based on religion, race, color, national origin, age, sex, height, weight, or marital status of a prospective employee.

History: 1976, Act 453, Eff. Mar. 31, 1977.

Administrative rules: R 37.1 et seq. of the Michigan Administrative Code.

37.2207 Individual seeking employment; prohibited practices.

Sec. 207. An individual seeking employment shall not publish or cause to be published a notice or advertisement that specifies or indicates the individual's religion, race, color, national origin, age, sex, height, weight, or marital status, or expresses a preference, specification, limitation, or discrimination as to the religion, race, color, national origin, age, height, weight, sex, or marital status of a prospective employer.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2208 Application for exemption; bona fide occupational qualification.

Sec. 208. A person subject to this article may apply to the commission for an exemption on the basis that religion, national origin, age, height, weight, or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Upon sufficient showing, the commission may grant an exemption to the appropriate section of this article. An employer may have a bona fide occupational qualification on the basis of religion, national origin, sex, age, or marital status, height and weight without obtaining prior exemption from the commission, provided that an employer who does not obtain an exemption shall have the burden of establishing that the qualification is reasonably necessary to the normal operation of the business.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2209 Covenants.

Sec. 209. A contract to which the state, a political subdivision, or an agency thereof is a party shall contain a covenant by the contractor and his subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of the contract.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2210 Plan.

Sec. 210. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

History: 1976, Act 453, Eff. Mar. 31, 1977.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

37.2211 Different standards of compensation; different terms, conditions, or privileges of employment.

Sec. 211. Notwithstanding any other provision of this article, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system.

History: 1976, Act 453, Eff. Mar. 31, 1977.

ARTICLE 3

37.2301 Definitions.

Sec. 301. As used in this article:

(a) "Place of public accommodation" means a business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. Place of public accommodation also includes the facilities of the following private clubs:

(*i*) A country club or golf club.

(*ii*) A boating or yachting club.

(*iii*) A sports or athletic club.

(*iv*) A dining club, except a dining club that in good faith limits its membership to the members of a particular religion for the purpose of furthering the teachings or principles of that religion, and not for the purpose of excluding individuals of a particular gender, race, or color.

(b) "Public service" means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of the state, a political subdivision, or an agency thereof, or a tax exempt private agency established to provide service to the public.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 70, Imd. Eff. May 29, 1992.

37.2302 Public accommodations or services; prohibited practices.

Sec. 302. Except where permitted by law, a person shall not:

(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion, race, color, national origin, age, sex, or marital status.

(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of religion, race, color, national origin, age, sex, or marital status, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of religion, race, color, national origin, age, sex, or marital status.

History: 1976, Act 453, Eff. Mar. 31, 1977.

Constitutionality: The goal of the Civil Rights Act was to broaden the scope of equal protection rather than the standard of equal protection developed by the courts in the course of interpreting the equal protection provisions of United States and Michigan Constitutions. Civil Rights Department v. Waterford, 425 Mich. 173, 387 N.W.2d 821 (1986).

37.2302a Applicability to private club.

Sec. 302a. (1) This section applies to a private club that is defined as a place of public accommodation pursuant to section 301(a).

(2) If a private club allows use of its facilities by 1 or more adults per membership, the use must be equally available to all adults entitled to use the facilities under the membership. All classes of membership shall be available without regard to race, color, gender, religion, marital status, or national origin. Memberships that permit use during restricted times may be allowed only if the restricted times apply to all adults using that membership.

(3) A private club that has food or beverage facilities or services shall allow equal access to those facilities and services for all adults in all membership categories at all times. This subsection shall not require service or access to facilities to persons that would violate any law or ordinance regarding sale, consumption, or regulation of alcoholic beverages.

(4) This section does not prohibit a private club from sponsoring or permitting sports schools or leagues for children less than 18 years of age that are limited by age or to members of 1 sex, if comparable and equally convenient access to the club's facilities is made available to both sexes and if these activities are not used as a subterfuge to evade the purposes of this article.

History: Add. 1992, Act 70, Imd. Eff. May 29, 1992.

37.2303 Exemptions.

Sec. 303. This article shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 through 436.58 of the Michigan Compiled Laws. This section shall not apply to a private club that is otherwise defined as a place of public accommodation in this article.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 70, Imd. Eff. May 29, 1992.

37.2304 Violation.

Sec. 304. Within 30 days after a determination by the commission that a place of public accommodation that holds a license issued by the liquor control commission under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws, has violated this article, the commission shall certify that determination to and shall file a complaint alleging a violation of Act No. 8 of the Public Acts of the Extra Session of 1933 with the liquor control commission.

History: Add. 1992, Act 70, Imd. Eff. May 29, 1992.

ARTICLE 4

37.2401 Definition.

Sec. 401. As used in this article, "educational institution" means a public or private institution, or a separate school or department thereof, and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, local school system, university, or a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2402 Educational institution; prohibited practices; compiling register of organizations; definitions.

Sec. 402. (1) An educational institution shall not:

(a) Discriminate against an individual in the full utilization of or benefit from the institution, or the services, activities, or programs provided by the institution because of religion, race, color, national origin, or sex.

(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution, because of religion, race, color, national origin, or sex.

(c) For purposes of admission only, make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, or marital status of a person, except as permitted by rule of the commission or as required by federal law, rule, or regulation, or pursuant to an affirmative action program.

(d) Print or publish or cause to be printed or published a catalog, notice, or advertisement indicating a preference, limitation, specification, or discrimination based on the religion, race, color, national origin, or sex of an applicant for admission to the educational institution.

(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of religion, race, color, national origin, or sex.

(f) Encourage or condone legally required discrimination against an individual on the basis of race or color by knowingly making or maintaining after April 1, 1984, an investment in an organization operating in the republic of South Africa. This subdivision shall not apply to a private educational institution.

(g) Encourage or condone religious discrimination or ethnic discrimination by knowingly making or maintaining after February 1, 1983, an investment in an organization operating in the Union of Soviet Socialist Republics.

(2) The department shall compile, from information obtained from the United States department of commerce, a current register of organizations operating in the republic of South Africa and the Union of Soviet Socialist Republics. The department shall make the register available, upon request, to a person, board, or commission for a reasonable charge.

(3) As used in this section:

(a) "Investment" means money placed in shares of stock and other equity interests. Investment does not include an evidence of indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof, that a bank is obligated to repurchase or a bank deposit made in the ordinary course of business.

(b) "Organization" means a United States firm, or a subsidiary or affiliate of a United States firm, as determined by the United States department of commerce.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1982, Act 512, Eff. Mar. 30, 1983.

Administrative rules: R 37.1 et seq. of the Michigan Administrative Code.

37.2403 Religious educational institution; exemption.

Sec. 403. The provisions of section 402 related to religion shall not apply to a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution or organization which limits admission or gives preference to an applicant of the same religion.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2404 Private educational institution; exemption.

Sec. 404. The provisions of section 402 relating to sex shall not apply to a private educational institution not exempt under section 403, which now or hereafter provides an education to persons of 1 sex.

History: 1976, Act 453, Eff. Mar. 31, 1977.

ARTICLE 5

37.2501 Definitions.

Sec. 501. As used in this article:

(a) "Real property" includes a building, structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

(b) "Real estate transaction" means the sale, exchange, rental, or lease of real property, or an interest therein.

(c) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of 1 or more persons.

(d) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property; who negotiates or attempts to negotiate any of those activities; who holds himself out as engaged in those activities; who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property; who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of a real estate broker or salesman.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2502 Persons engaging in real estate transactions, real estate brokers, or real estate salesmen; prohibited practices; section subject to §37.2503.

Sec. 502. (1) A person engaging in a real estate transaction, or a real estate broker or salesman, shall not on the basis of religion, race, color, national origin, age, sex, familial status, or marital status of a person or a person residing with that person:

(a) Refuse to engage in a real estate transaction with a person.

(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(c) Refuse to receive from a person or transmit to a person a bona fide offer to engage in a real estate transaction.

(d) Refuse to negotiate for a real estate transaction with a person.

(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or knowingly fail to bring a property listing to a person's attention, or refuse to permit a person to inspect real property, or otherwise make unavailable or deny real property to a person.

(f) Make, print, circulate, post, mail, or otherwise cause to be made or published a statement, advertisement, notice, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a preference, limitation, specification, or discrimination with respect to the real estate transaction.

(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(h) Discriminate against a person in the brokering or appraising of real property.

(2) A person shall not deny a person access to, or membership or participation in, a multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting real property or to discriminate against him or her in the terms or conditions of that access, membership, or participation because of religion, race, color national origin, age, sex, familial status, or marital status.

(3) This section is subject to section 503.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2503 Nonapplicability of §37.2502; "immediate family" defined; information relative to marital status.

Sec. 503. (1) Section 502 does not apply to any of the following:

(a) The rental of a housing accommodation in a building that contains housing accommodations for not more than 2 families living independently of each other if the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to the rental of a room or rooms in a single family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling.

(b) The rental of a housing accommodation for not more than 12 months by the owner or lessor if it was occupied by him or her and maintained as his or her home for at least 3 months immediately preceding occupancy by the tenant and is maintained as the owner's or lessor's legal residence.

(c) With respect to the age provision and the familial status provision only, the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

(2) As used in subsection (1), "immediate family" means a spouse, parent, child, or sibling.

(3) Information relative to the marital status of an individual may be obtained when necessary for the preparation of a deed or other instrument of conveyance.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2504 Application for financial assistance or financing; prohibited practices; nonapplicability of §37.2504(1)(b).

Sec. 504. (1) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of that person, shall not:

(a) Discriminate against the applicant because of the religion, race, color, national origin, age, sex, familial status, or marital status of the applicant or a person residing with the applicant.

(b) Use a form of application for financial assistance or financing or make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification, or discrimination as to the religion, race, color, national origin, age, sex, familial status, or marital status of the applicant or a person residing with the applicant.

(2) A person whose business includes engaging in real estate transactions shall not discriminate against a person because of religion, race, color, national origin, age, sex, familial status, or marital status, in the purchasing of loans for acquiring, constructing, improving, repairing, or maintaining a dwelling or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.

(3) Subsection (1)(b) does not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the national housing act, chapter 847, 48 Stat. 1246, or by a regulatory board or officer acting under the statutory authority of this state or the United States.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2505 Condition, restriction, or prohibition limiting use or occupancy of real property; exceptions; inserting or honoring void provision.

Sec. 505. (1) A condition, restriction, or prohibition, including a right of entry or possibility of reverter, that directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, age, sex, familial status, or marital status is void, except a limitation of use as provided in section 503(1)(c) or on the basis of religion relating to real property held by a religious institution or organization, or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(2) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1980, Act 170, Imd. Eff. June 18, 1980;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2506 Real estate transactions; prohibited representations.

Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, familial status, or marital status of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2506a Use by landlord of reasonable accommodations.

Sec. 506a. This article does not preclude the use by a landlord of reasonable accommodations as required by section 102(2) of the Michigan handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being section 37.1102 of the Michigan Compiled Laws.

History: Add. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2507 Plan.

Sec. 507. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

History: 1976, Act 453, Eff. Mar. 31, 1977.

Administrative rules: R 37.27 et seq. of the Michigan Administrative Code.

ARTICLE 6

37.2601 Commission; powers and duties generally; quorum; vacancy; compensation and expenses; conducting business at public meeting; notice; availability of certain writings to public.

Sec. 601. (1) The commission shall:

(a) Maintain a principal office in the city of Lansing and other offices within the state as it considers necessary.

(b) Meet and exercise its powers at any place within the state.

(c) Appoint an executive director who shall be the chief executive officer of the department and exempt from civil service, and appoint necessary hearing examiners.

(d) Accept public grants, private gifts, bequests, or other amounts or payments.

(e) Prepare annually a comprehensive written report to the governor. The report may contain recommendations adopted by the commission for legislative or other action necessary to effectuate the purposes and policies of this act.

(f) Promulgate, amend, or repeal rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(g) Request the services of a department or agency of the state or a political subdivision of the state.

(h) Promote and cooperate with a public or governmental agency as in the commission's judgment will aid in effectuating the act and the state constitution of 1963.

(i) Establish and promulgate rules governing its relationship with local commissions, and establish criteria for certifying local commissions for the deferring of complaints.

(2) The commission may hold hearings, administer oaths, issue preliminary notices to witnesses to appear, compel through court authorization the attendance of witnesses and the production for examination of books, papers, or other records relating to matters before the commission, take the testimony of a person under oath, and issue appropriate orders. The commission may promulgate rules as to the issuance of preliminary notices to appear.

(3) A majority of the members of the commission constitutes a quorum. A majority of the members is required to take action on matters not of a ministerial nature, but a majority of a quorum may deal with ministerial matters. A vacancy in the commission shall not impair the right of the remaining members to exercise the powers of the commission. The members of the commission shall receive a per diem compensation and shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties. The per diem compensation of the commission and the schedule for reimbursement of the expenses shall be established annually by the legislature.

(4) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(5) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1978, Act 446, Imd. Eff. Oct. 11, 1978.

Administrative rules: R 37.1 et seq. and R 37.101 of the Michigan Administrative Code.

37.2602 Department; powers and duties generally.

Sec. 602. The department shall:

(a) Be responsible to the executive director, who shall be the principal executive officer of the department and shall be responsible for executing the policies of the commission.

(b) Appoint necessary employees and agents and fix their compensation in accordance with civil service rules. The attorney general shall appear for and represent the department or the commission in a court having jurisdiction of a matter under this act.

(c) Receive, initiate, investigate, conciliate, adjust, dispose of, issue charges, and hold hearings on complaints alleging a violation of this act, and approve or disapprove plans to correct past discriminatory practices which have caused or resulted in a denial of equal opportunity with respect to groups or persons protected by this act.

(d) Require answers to interrogatories, order the submission of books, papers, records, and other materials pertinent to a complaint, and require the attendance of witnesses, administer oaths, take testimony, and compel, through court authorization, compliance with its orders or an order of the commission.

(e) Cooperate or contract with persons and state, local, and other agencies, both public and private, including agencies of the federal government and of other states.

(f) Monitor the awarding and execution of contracts to ensure compliance by a contractor or a subcontractor with a covenant entered into or to be entered into pursuant to section 209.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 258, Imd. Eff. Dec. 7, 1992.

37.2602a Person conducting business with state or agency; request for review of equal employment opportunity practices; fee to defray contract monitoring costs; civil rights contract monitoring fund; report to legislature; applicability of section.

Sec. 602a. (1) If a person who is conducting business or seeking to conduct business with the state or an agency of the state requests the department to review the person's equal employment opportunity practices for the purpose of determining the person's compliance with a covenant entered into, or willingness to comply with a covenant to be entered into, pursuant to section 209, the department may conduct the review.

(2) The department may charge a contractor that is a party to a contract with the state or an agency of the state a fee in an amount equal to .0005 of the contract amount to defray the costs of monitoring the contract pursuant to section 602(f). This subsection only applies to a contractor if the contract amount between the state or an agency of the state and the contractor is $100,000.00 or more.

(3) A fee imposed pursuant to subsection (2) is due and payable to the department as follows:

(a) Except as otherwise provided in subdivision (c), if the contract amount is paid to the contractor in a lump sum payment, the fee is due and payable at the time the contract payment is made to the contractor.

(b) Except as otherwise provided in subdivision (c), if the contract amount is paid to the contractor in 2 or more payments, the fee is due and payable in installments at the time each contract payment is made to the contractor in an amount proportional to the percentage of the entire contract amount represented by the contract payment.

(c) Upon the written approval of the department, the state or an agency of the state and a contractor may specify a fee payment schedule in the contract to provide for prompt payment of the fee during the term of the contract.

(4) If a contract amount is reduced or increased in a contract on which a fee is imposed pursuant to subsection (2), the fee shall be refunded or increased on a proportional basis to the reduction or increase in the contract amount.

(5) Fees imposed and collected by the department pursuant to this section shall be deposited in the state treasury and credited to the civil rights contract monitoring fund created in subsection (6).

(6) The civil rights contract monitoring fund is created as a separate fund in the state treasury to be administered and expended by the department as provided in this subsection. The department shall only use the fund to defray the cost of monitoring contracts pursuant to section 602(f) on which a fee is imposed pursuant to this section. All interest earned by the fund shall be credited to the fund. Any money, including interest earned by the fund, remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall not be credited to or revert to the general fund.

(7) Every 90 days, the department shall submit a report to the standing committees of the senate and house of representatives that are responsible for civil rights matters, the senate and house appropriations subcommittees on civil rights matters, and the senate and house fiscal agencies. The report required by this subsection shall include the following:

(a) The total number of fees imposed pursuant to subsection (1).

(b) The total amount of fees collected pursuant to subsection (1).

(c) The total number of monitoring activities conducted pursuant to section 602(f).

(d) A detailed explanation of how fees collected pursuant to this section have been expended to monitor contracts pursuant to section 602(f).

(e) Any additional information the department considers necessary.

(8) This section applies to contracts described in this section that are entered into on or after the effective date of this section.

History: Add. 1992, Act 258, Imd. Eff. Dec. 7, 1992.

37.2603 Complaint; petition for temporary relief or restraining order; notice of pendency of action.

Sec. 603. At any time after a complaint is filed, the department may file a petition in the circuit court for the county in which the subject of the complaint occurs, or for the county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this section, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual an order the commission may enter with respect to the complaint. If the complaint alleges a violation of article 5, upon the filing of the petition the department shall file for the record a notice of pendency of the action. The court may grant temporary relief or a restraining order as it deems just and proper, but the relief or order shall not extend beyond 5 days except by consent of the respondent, or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2604 Findings of fact and conclusions of law; final order dismissing complaint; copies of order.

Sec. 604. If the commission, after a hearing on a charge issued by the department, determines that the respondent has not engaged in a discriminatory practice prohibited by this act, the commission shall state its findings of fact and conclusions of law and shall issue a final order dismissing the complaint. The commission shall furnish a copy of the order to the claimant, the respondent, the attorney general, and other public officers and persons as the commission deems proper.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2605 Findings of fact and conclusions of law; cease and desist order; amendment of pleadings; findings and order based thereon; copies of order; scope of action ordered; certification of violation to licensing or contracting agency.

Sec. 605. (1) If the commission, after a hearing on a charge issued by the department, determines that the respondent has violated this act or the handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws, the commission shall state its findings of fact and conclusions of law and shall issue a final order requiring the respondent to cease and desist from the discriminatory practice and to take such other action as it deems necessary to secure equal enjoyment and protection of civil rights. If at a hearing on a charge, a pattern or practice of discrimination prohibited by this act or Act No. 220 of the Public Acts of 1976 appears in the evidence, the commission may, upon its own motion or on motion of the claimant, amend the pleadings to conform to the proofs, make findings, and issue an order based on those findings. A copy of the order shall be delivered to the respondent, the claimant, the attorney general, and to other public officers and persons as the commission deems proper.

(2) Action ordered under this section may include, but is not limited to:

(a) Hiring, reinstatement, or upgrading of employees with or without back pay.

(b) Admission or restoration of individuals to labor organization membership, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program, with the utilization of objective criteria in the admission of persons to those programs.

(c) Admission of persons to a public accommodation or an educational institution.

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to a person.

(e) Extension to all persons of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent.

(f) Reporting as to the manner of compliance.

(g) Requiring the posting of notices in a conspicuous place which the commission may publish or cause to be published setting forth requirements for compliance with civil rights law or other relevant information which the commission determines necessary to explain those laws.

(h) Payment to an injured party of profits obtained by the respondent through a violation of section 506 of this act or of Act No. 220 of the Public Acts of 1976.

(i) Payment to the complainant of damages for an injury or loss caused by a violation of this act, including a reasonable attorney's fee.

(j) Payment to the complainant of all or a portion of the costs of maintaining the action before the commission, including reasonable attorney fees and expert witness fees, if the commission determines that award to be appropriate.

(k) Payment of a civil fine for a violation of article 5 of this act, an amount directly related to the cost to the state for enforcing this statute not to exceed:

(*i*) $10,000.00 for the first violation.

(*ii*) $25,000.00 for the second violation within a 5-year period.

(*iii*) $50,000.00 for 2 or more violations within a 7-year period.

(*l*) Other relief the commission deems appropriate.

(3) In the case of a respondent operating by virtue of a license issued by the state, a political subdivision, or an agency of the state or political subdivision, if the commission, upon notice and hearing, determines that the respondent has violated this act and that the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the licensing agency. Unless the commission's finding is reversed in the course of judicial review, the finding of the commission may be grounds for revocation of the respondent's license.

(4) In the case of a respondent who violates this act in the course of performing under a contract or subcontract with the state, a political subdivision, or an agency of the state or political subdivision, where the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the contracting agency. Unless the commission's finding is reversed in the course of judicial review, the finding is binding on the contracting agency.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

37.2606 Appeals.

Sec. 606. (1) A complainant and a respondent shall have a right of appeal from a final order of the commission, including cease and desist orders and refusals to issue charges, before the circuit court for the county of Ingham, or the circuit court for the county in which the alleged violation occurred or where the person against whom the complaint is filed, resides, or has his or her principal place of business. An appeal before the circuit court shall be reviewed de novo. If an appeal is not taken within 30 days after the service of an appealable order of the commission, the commission may obtain a decree for the enforcement of the order from the circuit court which has jurisdiction of the appeal. If the appellant files for appeal in the circuit court for the county of Ingham, the appellee, upon application, shall be granted a change of venue to hear the matter on appeal in the circuit court for the county in which the alleged violation occurred or where the person against whom the complaint is filed, resides, or has his or her principal place of business or where the claimant resides.

(2) A proceeding for review or enforcement of an appealable order is initiated by filing a petition in the circuit court. Copies of the petition shall be served upon the parties of record. Within 30 days after the service of the petition upon the commission or filing of the petition by the commission, or within further time as the court may allow, the commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of the testimony, which need not be printed. By stipulation of the parties to the review proceeding, the record may be shortened. The court may grant temporary relief as it considers just, or enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the commission, or may remand the case to the commission for further proceedings. The commission's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(3) The final judgment or decree of the circuit court shall be subject to review by appeal in the same manner and form as other appeals from that court.

(4) A proceeding under this section shall be initiated not more than 30 days after a copy of the order of the commission is received, unless the commission is the petitioner or the petition is filed under subsection (3). If a proceeding is not so initiated, the commission may obtain a court order for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent, that the respondent is subject to the jurisdiction of the court, that the order sought to be enforced is an order of the commission, regularly entered, and that the commission has jurisdiction over the subject matter and the respondent.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1980, Act 93, Imd. Eff. Apr. 16, 1980.

ARTICLE 7

37.2701 Prohibited conduct.

Sec. 701. Two or more persons shall not conspire to, or a person shall not:

(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.

(b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.

(c) Attempt directly or indirectly to commit an act prohibited by this act.

(d) Willfully interfere with the performance of a duty or the exercise of a power by the commission or 1 of its members or authorized representatives.

(e) Willfully obstruct or prevent a person from complying with this act or an order issued or rule promulgated under this act.

(f) Coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

History: 1976, Act 453, Eff. Mar. 31, 1977;—Am. 1992, Act 124, Imd. Eff. June 29, 1992.

Administrative rules: R 37.1 et seq. of the Michigan Administrative Code.

37.2702 Violation of order prohibited.

Sec. 702. A person shall not violate the terms of an order or an adjustment order made under this act.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2703 Revocation or suspension of license.

Sec. 703. If a certification is made pursuant to section 605(3), the licensing agency may take appropriate action to revoke or suspend the license of the respondent.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2704 Termination of contract.

Sec. 704. Upon receiving a certification made under section 605(4), a contracting agency shall take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with this act, and shall advise the state and all political subdivisions and agencies thereof to refrain from entering into further contracts or extensions or other modifications of existing contracts with the respondent until the commission is satisfied that the respondent carries out policies in compliance with this act.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2705 Construction of act.

Sec. 705. (1) This act shall not be construed as preventing the commission from securing civil rights guaranteed by law other than the civil rights set forth in this act.

(2) This act shall not be interpreted as restricting the implementation of approved plans, programs, or services to eliminate discrimination and the effects thereof when appropriate.

(3) This act shall not be interpreted as invalidating any other act that provides programs or services for persons covered by this act.

History: 1976, Act 453, Eff. Mar. 31, 1977.

ARTICLE 8

37.2801 Action for injunctive relief or damages; venue; "damages" defined.

Sec. 801. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney's fees.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2802 Costs of litigation.

Sec. 802. A court, in rendering a judgment in an action brought pursuant to this article, may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2803 Legal or equitable remedies.

Sec. 803. This act shall not be construed to diminish the right of a person to direct or immediate legal or equitable remedies in the courts of the state.

History: 1976, Act 453, Eff. Mar. 31, 1977.

37.2804 Repeal of §§423.301 to 423.311, §§37.1 to 37.9, and §§564.101 to 564.704.

Sec. 804. Act No. 251 of the Public Acts of 1955, as amended, being sections 423.301 to 423.311 of the Compiled Laws of 1970, Act No. 45 of the Public Acts of the Second Extra Session of 1963, as amended, being sections 37.1 to 37.9 of the Compiled Laws of 1970, and Act No. 112 of the Public Acts of 1968, as amended, being sections 564.101 to 564.704 of the Compiled Laws of 1970, are repealed.

History: 1976, Act 453, Eff. Mar. 31, 1977.

CITY LIBRARY EMPLOYEES' RETIREMENT SYSTEM

Act 339 of 1927

AN ACT to authorize the establishment of a system of retiring allowances for employes of public libraries now existing or which may hereafter be established in incorporated cities of 250,000 population or more.

History: 1927, Act 339, Imd. Eff. June 1, 1927.

The People of the State of Michigan enact:

38.701 City library employees' retirement system; establishment.

Sec. 1. The legislative body of any incorporated city of 250,000 or more (hereinafter referred to for the purposes of this act as the local legislative body), where free public libraries have been or may hereafter be established is hereby authorized, upon the application and recommendation of the local library board or commission or body duly authorized by law to maintain free public libraries in such city (hereinafter referred to for the purposes of this act as the library board), to establish a system of retiring allowances for the employes of such libraries which system shall be based upon the principle that there shall be accumulated, year by year, a reserve fund sufficient to provide the agreed annuity at the time of retirement. Upon the establishment of such system, the local legislative body shall raise by taxation each year a sum which will provide an adequate reserve fund.

History: 1927, Act 339, Imd. Eff. June 1, 1927;—CL 1929, 8109;—CL 1948, 38.701.

38.702 Library board; submission of retirement plan to local legislative body.

Sec. 2. It shall be the duty of said library board when it desires to establish a system of retiring allowances, to apply to the local legislative body and to submit to said local legislative body for its approval and adoption a detailed plan for such system which shall be based upon the following provisions and conditions:

(a) It shall enumerate the classes of employes to be included in said system;

(b) It shall fix the amount of the annual retiring allowance, the number of years of service necessary to entitle an employe to a retiring allowance, the age at which an employe may be retired, the nature and extent of the physical or mental disability which shall entitle an employe to retire before reaching the age of retirement and the conditions upon which the age of retirement may be anticipated;

(c) It shall provide for a body to be known as the retiring fund trustees which shall consist of 5 members. Two members shall be elected by the staff; 2 members shall be appointed by said local legislative body and the terms of office of said members shall be 4 years except that when the system is first put into effect, the terms of office shall be so fixed that but 1 member's term shall expire each year. The fifth member shall be ex-officio, the presiding officer of the said library board. Said trustees shall have charge of said retiring allowance fund and shall invest the same only in such securities as are legal for savings banks. Said trustees shall adopt such rules and by-laws as may be necessary, and not inconsistent with the constitution and laws of this state and the provisions of this act;

(d) There shall be attached to such system as may be recommended, the certificate of a recognized and competent actuary stating that the system is actuarially sound, and the system shall provide for annual reports and valuations by such actuary to determine whether the fund is on a sound financial and actuarial basis.

History: 1927, Act 339, Imd. Eff. June 1, 1927;—CL 1929, 8110;—CL 1948, 38.702.

38.703 Approval of plan by legislative body; commencement.

Sec. 3. Upon the submission by said library board of a plan for a system of retiring allowances, the local legislative body shall take the same under consideration and shall then, in conference with said library board agree upon the details of said plan and if said plan so agreed upon differs from the one submitted, it shall, before adoption, be submitted to an actuary for report upon its financial and actuarial soundness and, if certified to be sound, may then be adopted. The plan shall then be put into operation at the beginning of the next fiscal year, unless an earlier date is agreed upon.

History: 1927, Act 339, Imd. Eff. June 1, 1927;—CL 1929, 8111;—CL 1948, 38.703.

38.704 Annual assessment for retirement allowance.

Sec. 4. When a system for retiring allowances has been agreed upon by the local legislative body and the library board and formally adopted by the former, then it shall be the duty of said local legislative body to raise by taxation each year, the sum found necessary to produce the retiring allowance fund required by the system adopted.

History: 1927, Act 339, Imd. Eff. June 1, 1927;—CL 1929, 8112;—CL 1948, 38.704.

38.705 Reserve fund and annuities; tax exemption.

Sec. 5. When a system of retiring allowances is adopted under the provisions of this act, the reserve fund thereby provided shall be free from all state, county, township, city, village and school district taxes and the annuities payable to the members of the staff shall likewise be free from all such taxes.

History: 1927, Act 339, Imd. Eff. June 1, 1927;—CL 1929, 8113;—CL 1948, 38.705.

38.706 Municipal employees' retirement system; coverage of employees of public libraries.

Sec. 6. In lieu, however, of formulating any plan under the foregoing sections of this act the library board and the local legislative body may, by concurrent resolution, adopt and put into effect for the employes of the library any plan which may have been, or may hereafter be, adopted for the employes of the city.

History: Add. 1935, Act 154, Imd. Eff. June 4, 1935;—CL 1948, 38.706.

OPTIONAL UNIFIED FORM OF COUNTY GOVERNMENT (EXCERPTS)

Act 139 of 1973

AN ACT to provide forms of county government; to provide for county managers and county executives and to prescribe their powers and duties; to abolish certain departments, boards, commissions, and authorities; to provide for transfer of certain powers and functions; to prescribe powers of a board of county commissioners and elected officials; to provide organization of administrative functions; to transfer property; to retain ordinances and laws not inconsistent with this act; and to provide methods for abolition of a unified form of county government.

History: 1973, Act 139, Eff. Mar. 29, 1974.

The People of the State of Michigan enact:

45.554 Abolition of certain offices, boards, commissions, authorities, or departments; termination of tenure; former powers as general county government powers; powers and duties of excepted boards or commissions; certain powers neither minimized nor divested; method of appointing veterans; powers vested in county department of veterans' affairs administrative committee or soldiers' relief commission.

Sec. 4. (1) On the date the optional unified form of county government becomes effective, all appointed boards, commissions, and authorities except the apportionment commission, airport zoning board of appeals, board of county canvassers, board of determination for a drainage district, civil service commission, county drainage board, county department of veterans' affairs administrative committee or soldiers' relief commission, concealed weapons licensing board, election commission, jury commission, library commission, parks and recreation commission, social services board, tax allocation board, a board established to oversee retirement programs, a plat board, a mental health board, a hospital board, an intercounty drainage board, and a building authority established by the county individually or in conjunction with another unit of government and the boards of county road commissioners; and all elective county offices except those of county commissioner, prosecuting attorney, clerk, register of deeds, treasurer, sheriff, and drain commissioner are abolished and the tenure of persons holding the office or appointment is terminated. Termination shall take effect whether or not it coincides with the end of a term of office or appointment. All county departments in conflict with the departmental organization established by this act are abolished. As used in this act, "department" or "county department" shall not include boards of county road commissioners.

(2) On the date the optional unified form of county government becomes effective, powers vested in an abolished office, board, commission, authority, or department shall become general county government powers, and functions performed by the abolished office, board, commission, authority, or department shall be administered by the county executive or county manager in the manner determined by the county board of commissioners.

(3) A board or commission which is excepted from this act pursuant to subsection (1) shall exercise the powers and duties as provided by law.

(4) The power vested in the office of county prosecuting attorney, county sheriff, county register of deeds, county clerk, county treasurer, county drain commissioner, or the board of county road commissioners, shall not be minimized or divested by this act.

(5) The method of appointing veterans to and the power vested in a county department of veterans' affairs administrative committee pursuant to Act No. 192 of the Public Acts of 1953, as amended, being sections 35.621 to 35.624 of the Michigan Compiled Laws, or a soldiers' relief commission pursuant to Act No. 214 of the Public Acts of 1899, as amended, being sections 35.21 to 35.27 of the Michigan Compiled Laws, shall not be affected, minimized, or divested, except as follows:

(a) Budgeting, procurement, office facilities and equipment, employment, and related management functions shall be performed under the direction and supervision of the county manager or executive.

(b) The employment of veterans' service officer shall be subject to approval of the department of veterans' affairs administrative committee or soldiers' relief commission.

History: 1973, Act 139, Eff. Mar. 29, 1974;—Am. 1978, Act 9, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 100, Imd. Eff. Apr. 19, 1980.

45.563 Departments; establishment; directors; functions.

Sec. 13. An optional unified form of county government shall have all functions, except when otherwise allocated by this act, performed by 1 or more departments of the county or by the remaining boards, commissions, or authorities. Each department shall be headed by a director. Subject to the authority of the county manager or elected county executive the following departments and their respective directors may be established and designated to be responsible for performance of the functions enumerated:

(a) The department of administrative services shall perform general administrative and service functions for the county government; carry on public relations and information activities and deal with citizen complaints; plan for, assign, manage, and maintain all county building space; and manage a central motor pool.

(b) The department of finance shall supervise the execution of the annual county budget and maintain expenditure control; perform all central accounting functions; collect moneys owing the county not particularly within the jurisdiction of the county treasurer; purchase supplies and equipment required by county departments; and perform all investment, borrowing, and debt management functions except as done by the county treasurer.

(c) The department of planning and development shall prepare comprehensive plans for the overall development of the county; coordinate the preparation of county capital improvement programs; supervise economic development functions; and represent the county in joint planning activities with other jurisdictions.

(d) The department of medical examiners shall coordinate and supervise medical investigative activities.

(e) The department of corporation counsel if adopted shall perform as provided by law all civil law functions and provide property acquisition services for the county as provided by law.

(f) The department of parks and recreation shall develop, maintain, and operate all county park and recreation facilities and supervise all recreation programs except where the same is under a board of county road commissioners, or a parks and recreation commission.

(g) The department of personnel and employee relations shall perform all personnel and labor relations functions for the county.

(h) The department of health and environmental protection shall perform all public health services for the county and carry on environmental upgrading programs.

(i) The department of libraries shall operate a general library program for the county if no library board or commission exists and may operate libraries for other governmental and semi-governmental entities.

(j) The department of public works shall construct, maintain, and operate all county storm and sanitary sewer, sewage disposal, general drainage, and flood control facilities except as the same are performed by the county drain commissioner; may perform general engineering, construction, and maintenance functions for all county departments and, upon approval of the board, for other governmental and semigovernmental entities; may operate the county airport except where the airport is operated by a board of county road commissioners; may construct, maintain, and operate county solid waste systems including resource recovery and distribution; and may construct, maintain, and operate water processing and distribution systems.

(k) The department of institutional and human services shall supervise county human service programs including hospitals and child care institutions.

History: 1973, Act 139, Eff. Mar. 29, 1974;—Am. 1982, Act 420, Eff. Mar. 30, 1983.

Cited in other sections: Section 45.563 is cited in §45.583.

FOURTH CLASS CITIES (EXCERPTS)

Act 215 of 1895

AN ACT to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1931, Act 223, Eff. Sept. 18, 1931;—Am. 1954, Act 110, Eff. Aug. 13, 1954;—Am. 1962, Act 161, Imd. Eff. May 10, 1962;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974;—Am. 1983, Act 45, Imd. Eff. May 12, 1983.

The People of the State of Michigan enact:

CHAPTER VII—DUTIES AND COMPENSATION OF OFFICERS.

CITY TREASURER.

87.15 Public moneys; prohibited handling; removal from office.

Sec. 15. The city treasurer shall keep all moneys in his hands belonging to the city and to the public schools, separate and distinct from his own moneys; and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt, or any of the school or library funds in his custody or keeping, for his own use or benefit or that of any other person; any violation of this section shall subject him to immediate removal from office by the council, and the council is hereby authorized to declare the office vacant and to appoint his successor for the remainder of his term.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3037;—CL 1915, 2953;—CL 1929, 1877;—CL 1948, 87.15.

CHAPTER XI—GENERAL POWERS OF CITY CORPORATIONS.

91.1 General powers. (Excerpts)

Sec. 1. Every city incorporated under the provisions of this act, shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter mentioned; and the council may pass such ordinances in relation thereto, and for the exercise of the same, as they may deem proper, namely:

Public library.

Thirty-eighth, To establish and maintain a public library, and to provide a suitable building therefor, and to aid in maintaining such other public libraries as may be established within the city by private beneficence as the council may deem to be for the public good;

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3107;—CL 1915, 3021;—CL 1929, 1945;—CL 1948, 91.1.

HOME RULE CITIES (EXCERPT)

Act 279 of 1909

AN ACT to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; and to repeal certain acts and parts of acts on specific dates.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1981, Act 175, Imd. Eff. Dec. 14, 1981;—Am. 1986, Act 64, Imd. Eff. Mar. 31, 1986.

The People of the State of Michigan enact:

117.4e Permissible charter provisions.

Sec. 4e. Each city may in its charter provide:

Public buildings, grounds, acquisition.

(1) For the acquisition by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary lands therefor, viz.: City hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, municipal camps, public grounds, zoological gardens, museums, libraries, airports, cemeteries, public wharves and landings upon navigable waters, levees and embankments, watch-houses, city prisons and work houses, penal farms, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, waterworks plants and systems, sewage disposal plants and systems, market houses and market places, office buildings for city officers and employees, public works, and public buildings of all kinds; and for the costs and expenses thereof;

Condemnation.

(2) For the acquisition by purchase, gift, condemnation, lease or otherwise of private property, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not. If condemnation proceedings are resorted to for the acquisition of private property outside the corporate limits of such city, such condemnation proceedings may be brought under the provisions of Act No. 149 of the Public Acts of 1911, as amended or as may be amended, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public and to define the terms 'public corporations', 'state agencies' and 'private property' as used herein," being sections 353 to 373 inclusive of the Compiled Laws of 1915, or such other appropriate provisions therefor as exist or shall be made by law;

Property, lease, sale, etc.

(3) For the maintenance, development, operation, of its property and upon the discontinuance thereof to lease, sell or dispose of the same subject to any restrictions placed thereupon by law: Provided, That on the sale of any capital asset of a municipally owned utility the money received shall be used in procuring a similar capital asset, or placed in the sinking fund to retire bonds issued for said utility.

History: Add. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2235;—CL 1948, 117.4e;—Am. 1949, Act 207, Eff. Sept. 23, 1949.

Compiler's note: For provisions of Act 149 of 1911, referred to in subdivision (2), see §213.21 et seq.

BUDGET HEARINGS OF LOCAL GOVERNMENTS

Act 43 of 1963 (2nd Ex. Sess.)

AN ACT to provide for public hearings on budgets of local units of government.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

The People of the State of Michigan enact:

141.411 Local unit of government; definition.

Sec. 1. As used in this act "local unit" means a county, township, city, village, authority or school district empowered by the constitution or by law to prepare budgets of estimated expenditures and revenues.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

Cited in other sections: Sections 141.411 to 141.415 are cited in §141.434.

141.412 Local unit of government; public hearing on proposed budget, notice.

Sec. 2. Every local unit shall provide for a public hearing to be held on its proposed budget, notice of such hearing to be given by publication in a newspaper of general circulation within such unit at least six days prior to such hearing. Such notice shall include the time and place of such hearing and shall state the place where a copy of such budget is available for public inspection.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

Cited in other sections: Section 141.412 is cited in §§41.8 and 211.24e.

141.413 Local unit of government; final adoption of budget, hearing.

Sec. 3. Each local unit shall hold such public hearing prior to final adoption of its budget. Units which submit budgets to a county tax allocation board shall hold such hearing after its tax rate allocation has been fixed by such board.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

141.414 Local unit of government; changes in budget.

Sec. 4. Changes made in its budget by the governing body of a local unit subsequent to such public hearing shall not affect the validity of such budget.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

141.415 Local unit of government; public hearing on budget, charter, statute.

Sec. 5. Local units which provide for a public hearing before adoption of their budgets either in pursuance of charter provision or law shall hold a public hearing in accordance with such provision of charter or law which shall be deemed to be in a manner prescribed by law.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

UNIFORM BUDGETING AND ACCOUNTING ACT

Act 2 of 1968

AN ACT to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer and the attorney general; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1978, Act 621, Eff. Apr. 1, 1980.

The People of the State of Michigan enact:

141.421 Uniform charts of accounts for local units; design; conformity to uniform standards; maintenance of local unit accounts; publication of standard operating procedures and forms; assistance, advice, or instruction; inadequacy of local unit; report; services of certified public accountant or state treasurer; expenses; payment; contract; monthly billings.

Sec. 1. (1) The state treasurer shall prescribe uniform charts of accounts for all local units of similar size, function, or service designed to fulfill the requirements of good accounting practices relating to general government. Such chart of accounts shall conform as nearly as practicable to the uniform standards as set forth in the publication of the municipal finance officers' association of the United States and Canada entitled "governmental accounting, auditing and financial reporting, 1980" or as revised or changed. The official who by law or charter is charged with the responsibility for the financial affairs of the local unit shall insure that the local unit accounts are maintained and kept in accordance with the chart of accounts. The state treasurer may also publish standard operating procedures and forms for the guidance of local units in establishing and maintaining uniform accounting.

(2) A local unit may request the state treasurer to provide assistance, advice, or instruction in establishing or maintaining the uniform chart of accounts required by subsection (1).

(3) The state treasurer may provide assistance, advice, or instruction to a local unit to establish or maintain the uniform chart of accounts required by subsection (1) based on information from 1 or more of the following sources:

(a) Disclosure by the certified public accountant or the department of treasury in an audit report required by section 5 or 6 that the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(b) Disclosure by the department of treasury in a special examination report that the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(c) Disclosure in an audit report issued under section 5 or 6 that the records of the local unit are not auditable because the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(d) Disclosure from another state agency.

(e) Department of treasury records indicate that the audit required under section 5 has not been performed or filed and is delinquent, and that the local unit is subject to the provisions of section 21 of Act No. 140 of the Public Acts of 1971, as amended, being section 141.921 of the Michigan Compiled Laws.

(4) The state treasurer, in performing the services under subsection (2) or (3), may make a determination that the local unit cannot adequately establish or maintain the uniform chart of accounts without additional assistance, advice, or instruction from the state treasurer. The state treasurer shall submit a written report of the findings and recommendations to the governing body of the local unit. The local unit shall retain, within 90 days after receipt of this report, the services of a certified public accountant or the state treasurer to perform the needed additional services and shall notify, by resolution of the governing body, the state treasurer of such action. Upon failure of the local unit to respond within the 90-day period, the state treasurer shall perform the necessary services to adequately establish or maintain the uniform chart of accounts.

(5) The state treasurer shall charge reasonable and necessary expenses, including per diem and travel expenses, to the local unit for services performed pursuant to subsections (2), (3), and (4), and the local unit shall make payment to the state treasurer for these expenses. The state treasurer shall execute a contract with the local unit or provide monthly billings if a contract is not executed.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982.

Cited in other sections: Section 141.421 et seq. is cited in §§38.1140h, 41.110a, 124.671, 141.921, 141.932, 141.937, 141.1023, 141.1104, 141.1113, and 141.1212, 141.1221, 247.660h, 331.1501, and 750.492.

141.421a Short title.

Sec. 1a. This act shall be known and may be cited as the "uniform budgeting and accounting act".

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.422 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 2a to 2d have the meanings ascribed to them in those sections.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1978, Act 621, Eff. Apr. 1, 1980.

141.422a Definitions; A to B.

Sec. 2a. (1) "Administrative officer" means an individual employed or otherwise engaged by a local unit to supervise a budgetary center.

(2) "Allotment" means a portion of an appropriation which may be expended or encumbered during a certain period of time.

(3) "Appropriation" means an authorization granted by a legislative body to incur obligations and to expend public funds for a stated purpose.

(4) "Budget" means a plan of financial operation for a given period of time, including an estimate of all proposed expenditures from the funds of a local unit and the proposed means of financing the expenditures. Budget does not include any of the following:

(a) A fund for which the local unit acts as a trustee or agent.

(b) An intragovernmental service fund.

(c) An enterprise fund.

(d) A public improvement or building and site fund.

(e) A special assessment fund.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.422b Definitions; B to D.

Sec. 2b. (1) "Budgetary center" means a general operating department of a local unit or any other department, institution, board, commission, agency, office, program, activity, or function to which money is appropriated by the local unit.

(2) "Capital outlay" means a disbursement of money which results in the acquisition of, or addition to, fixed assets.

(3) "Chief administrative officer" means any of the following:

(a) The manager of a village or, if a village does not employ a manager, the president of the village.

(b) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.

(c) The superintendent of a local school district, or if the school district does not have a superintendent, the person having general administrative control of the school district.

(d) The superintendent of an intermediate school district, or if the school district does not have a superintendent, the person having general administrative control of the school district.

(e) The manager of a township, or if the township does not employ a manager, the supervisor of the township.

(f) The elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, the controller of the county appointed pursuant to section 13b of Act No. 156 of the Public Acts of 1851, as amended, being section 46.13b of the Michigan Compiled Laws; or if the county has not appointed a controller, an individual designated by the county board of commissioners of the county.

(g) The official granted general administrative control of an authority or organization of government established by law which may issue obligations pursuant to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws, and which either may levy a property tax or may expend funds of the authority or organization.

(4) "Deficit" means an excess of liabilities and reserves of a fund over its assets.

(5) "Disbursement" means a payment in cash.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.422c Definitions; E to G.

Sec. 2c. (1) "Expenditure" means the cost of goods delivered or services rendered, whether paid or unpaid, including expenses, debt retirement not reported as a liability of the fund from which retired, or capital outlay.

(2) "Fiscal officer" means the controller, finance director, business manager, or other elected or appointed official who prepares and administers the budget of a local unit.

(3) "General appropriations act" means the budget as adopted by the legislative body or as otherwise given legal effect pursuant to a charter provision in effect on the effective date of this section.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.422d Definitions; L to S.

Sec. 2d. (1) "Legislative body" means any of the following:

(a) The council, commission, or other entity vested with the legislative power of a village.

(b) The council or other entity vested with the legislative power of a city.

(c) The board of education of a local school district.

(d) The board of education of an intermediate school district.

(e) The township board of a township.

(f) The county board of commissioners of a county.

(g) The board of county road commissioners of a county.

(h) The official body to which is granted general governing powers over an authority or organization of government established by law which may issue obligations pursuant to Act No. 202 of the Public Acts of 1943, as amended, and which either may levy a property tax or may expend funds of the authority or organization.

(2) Except as used in sections 14 to 20a, "local unit" means a village, city, township, or an authority or commission established by a village, city, or township ordinance or charter. As used in sections 14 to 20a, "local unit" means any of the following:

(a) A village.

(b) A city.

(c) A local school district.

(d) An intermediate school district.

(e) A township.

(f) A county.

(g) A county road commission.

(h) An authority or organization of government established by law which may issue obligations pursuant to Act No. 202 of the Public Acts of 1943, as amended, and which either may levy a property tax or may expend funds of the authority or organization.

(3) "Local school district" means the following:

(a) Unless included in subdivision (b) or (c), a school district organized under part 2, 3, 4, 5, or 6 of Act No. 451 of the Public Acts of 1976 as amended, being sections 380.71 to 380.484 of the Michigan Compiled Laws, or a local act school district.

(b) After December 15, 1981, a school district organized as a local act school district or under part 2, 3, 4, 5, or 6 of Act No. 451 of the Public Acts of 1976, as amended, which levied 35.75 mills, 34.83 mills, 28 mills, 31.2155 mills, 24.19 mills, 22.6027 mills, or 27.90 mills for operating purposes in 1979-80, and is operating under a deficit budget for its 1980-81 fiscal year. Once a school district is considered a local school district pursuant to this subdivision or subdivision (c), the chief administrative officer shall comply, if necessary, with the requirements of section 17 and the local school district shall amend, if necessary, its budget or general appropriations act to conform with the requirements of section 16.

(c) After December 15, 1981, any school district organized as a local act school district or under part 2, 3, 4, 5, or 6 of Act No. 451 of the Public Acts of 1976, as amended, that meets all of the following criteria:

(*i*) A deficit in excess of $150,000.00 had been incurred as of June 30, 1980.

(*ii*) A deficit in excess of $300,000.00 is anticipated for the fiscal year of the school district ending June 30, 1981.

(4) "Revenue" means an addition to the assets of a fund which does not increase a liability, does not represent the recovery of an expenditure, does not represent the cancellation of a liability without a corresponding increase in any other liability or a decrease in assets, and does not represent a contribution of fund capital in enterprise or in intragovernmental service funds.

(5) "Surplus" means an excess of the assets of a fund over its liabilities and reserves.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 78, Imd. Eff. June 30, 1981.

141.423 Publication; hearings.

Sec. 3. The state treasurer, before the adoption of a uniform chart of accounts, shall provide for advance publication and for hearings thereon with an advisory committee selected by the state treasurer from the local units and from other interested or concerned groups. The uniform chart of accounts, when finally adopted, shall be published and made readily available to all interested persons.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.424 Annual financial report.

Sec. 4. (1) Each local unit of government shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class, 1 copy of which shall be filed in the office of the state treasurer and shall contain an accurate statement in summarized form showing, for each fiscal year, the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law. The annual report filed under this section shall be in lieu of the reporting requirements imposed by section 5(2) of chapter III of the municipal finance act, Act No. 202 of the Public Acts of 1943, as amended, being section 133.5 of the Michigan Compiled Laws.

(2) The copies of the annual financial report required by subsection (1) shall be filed with the state treasurer within 120 days after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The governing body of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. The state treasurer shall grant a 60-day extension if the local unit presents evidence to the state treasurer that the audit is in progress, and will be completed within 180 days after the end of the fiscal year.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982;—Am. 1983, Act 36, Imd. Eff. May 10, 1983.

Cited in other sections: Section 141.424 is cited in §124.471.

141.425 Annual audit; exception.

Sec. 5. (1) All local units of government of less than 1,000,000 population shall have an annual audit of its financial records, accounts and procedures except that in the units of local government having populations of less than 2,000 such audit shall be required not less frequently than biennially.

(2) Local units of government with 1,000,000 or more population shall be required to obtain an annual audit as provided in this section, except that if internal auditing procedures for all public moneys are established, and a copy of the annual internal audit of all public moneys is filed with the state department of treasury, then an independent audit shall be required not less frequently than each 5 years.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.426 Certified public accountants; cost.

Sec. 6. Local units may retain certified public accountants to perform such audits. If any unit fails to provide for an audit, the state treasurer shall either conduct the audit or appoint a certified public accountant to perform it. The entire cost of any such audits will be borne by the local unit.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

Cited in other sections: Sections 141.426 to 141.440a are cited in §§124.404a, 124.410, and 124.471.

141.427 Minimum auditing procedures and standards; form for report of auditing procedures; filing audit report and report of auditing procedures; time for filing; extension.

Sec. 7. (1) The state treasurer shall prescribe minimum auditing procedures and standards and these shall conform as nearly as practicable to generally accepted auditing standards established by the American institute of certified public accountants.

(2) A report of the auditing procedures applied in each audit shall be prepared on a form provided for this purpose by the state treasurer.

(3) One copy of every audit report and 1 copy of the report of auditing procedures applied shall be filed with the state treasurer.

(4) The copy of the audit report and the copy of the report of auditing procedures applied required by subsection (3) shall be filed with the state treasurer within 120 days after the end of the fiscal year of a local unit for which an audit has been performed pursuant to section 5. The governing body of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. The state treasurer shall grant a 60-day extension if the local unit presents evidence to the state treasurer that the audit is in progress, and will be completed within 180 days after the end of the fiscal year.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982.

141.428 Contents of audit report.

Sec. 8. Every audit report shall:

(a) State that the audit has been conducted in accordance with generally accepted auditing standards and with the standards prescribed by the state treasurer.

(b) State that financial statements in such reports have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and with applicable rules and regulations of any state department or agency. Any deviations from such principles, rules or regulations shall be described.

(c) Disclose any material deviations by the local unit from generally accepted accounting practices or from applicable rules and regulations of any state department or agency.

(d) Disclose any fiscal irregularities, defalcations, misfeasance, nonfeasance or malfeasance which came to the auditors' attention.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.429 Public inspection of audit reports.

Sec. 9. All audit reports submitted under this act shall be made available for public inspection.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.430 Orders and subpoenas.

Sec. 10. In connection with any audit and examination conducted under the provisions of this act, the state treasurer, or a deputy state treasurer, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the state treasurer or by a deputy state treasurer, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.431 Violations of act.

Sec. 11. If any audit or investigation conducted under this act discloses statutory violations on the part of any officer, employee or board of any local unit, a copy of such report shall be filed with the attorney general who shall review the report and cause to be instituted such proceeding against such officer, employee or board as he deems necessary. The attorney general, within 60 days after receipt of the report, may institute criminal proceedings as he deems necessary against such officer or employee, or direct that the criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. The attorney general or the prosecuting attorney shall institute civil action in any court of competent jurisdiction for the recovery of any public moneys, disclosed by any examination to have been illegally expended or collected and not accounted for; also for the recovery of any public property disclosed to have been converted and misappropriated.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.432 Verification of transactions.

Sec. 12. (1) For purposes of verifying any transactions disclosed by an audit or investigation, any person or firm authorized to conduct an audit under this act may ascertain the deposits, payments, withdrawals and balances on deposit in any bank account or with any contractor or with any other person having dealings with the local unit.

(2) A bank, contractor or person shall not be held liable for making available any of the information required under this act.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.433 Scope of examiner's authority; production of records; divulging confidential information.

Sec. 13. (1) Notwithstanding the confidentiality provisions of any tax laws, any authorized employee of the state treasurer, certified public accountant or firm of certified public accountants conducting an audit under this act shall have access to and authority to examine all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of any local unit excepting any records which were obtained from the United States internal revenue service under the federal state cooperative exchange agreement.

(2) An officer of a local unit upon demand of persons authorized under this act, shall produce all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of the local unit under audit or investigation and shall truthfully answer all questions related thereto.

(3) The liabilities and penalties provided by all specific confidentiality statutes for divulging confidential information shall be applicable to all persons authorized to make an audit under this act.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1971, Act 91, Eff. Mar. 30, 1972.

141.434 Budget; preparation, presentation, and control of expenditures; information; transmitting recommended budget to legislative body; suggested general appropriations act; consideration of recommended budget; furnishing information to legislative body; public hearing; discharge of responsibilities and duties by fiscal officer.

Sec. 14. (1) Unless otherwise provided by law, charter, resolution, or ordinance, the chief administrative officer shall have final responsibility for budget preparation, presentation of the budget to the legislative body, and the control of expenditures under the budget and the general appropriations act.

(2) Unless another person is designated by charter, the chief administrative officer in each local unit shall prepare the recommended annual budget for the ensuing fiscal year in the manner provided in sections 15 to 20a. The budgetary centers of the local unit shall provide to the chief administrative officer information which the chief administrative officer considers necessary and essential to the preparation of a budget for the ensuing fiscal period for presentation to the local unit's legislative body. Each administrative officer or employee of a budgetary center shall comply promptly with a request for information which the chief administrative officer makes.

(3) The chief administrative officer shall transmit the recommended budget to the legislative body according to an appropriate time schedule developed by the local unit. The schedule shall allow adequate time for review by the legislative body before commencement of the budget year. The recommended budget, when transmitted by the chief administrative officer, shall be accompanied by a suggested general appropriations act to implement the budget. The suggested general appropriations act shall fulfill the requirements of section 16.

(4) The recommended budget transmitted by the chief administrative officer shall be considered by the legislative body.

(5) The chief administrative officer shall furnish to the legislative body information the legislative body requires for proper consideration of the recommended budget. This may include expenditure and revenue data on the local unit's most recently completed fiscal year. Before final passage of a general appropriations act by the legislative body, a public hearing shall be held as required by Act No. 43 of the Public Acts of the Second Extra Session of 1963, being sections 141.411 to 141.415 of the Michigan Compiled Laws, and Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(6) The responsibilities and duties imposed by this section upon the chief administrative officer shall be discharged by the fiscal officer in a local unit which has not elected or designated a chief administrative officer.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

Cited in other sections: Sections 141.434 to 141.439 are cited in §§124.410 and 124.471.

141.435 Recommended budget; contents; limitation on total estimated expenditures.

Sec. 15. (1) The recommended budget shall include at least the following:

(a) Expenditure data for the most recently completed fiscal year and estimated expenditures for the current fiscal year.

(b) An estimate of the expenditure amounts required to conduct, in the ensuing fiscal year, the government of the local unit, including its budgetary centers.

(c) Revenue data for the most recently completed fiscal year and estimated revenues for the current fiscal year.

(d) An estimate of the revenues, by source of revenue, to be raised or received by the local unit in the ensuing fiscal year.

(e) The amount of surplus or deficit that has accumulated from prior fiscal years, together with an estimate of the amount of surplus or deficit expected in the current fiscal year. The inclusion of the amount of an authorized debt obligation to fund a deficit shall be sufficient to satisfy the requirement of funding the amount of a deficit estimated under this subdivision.

(f) An estimate of the amounts needed for deficiency, contingent, or emergency purposes, and the amounts needed to pay and to discharge the principal and interest of debt of the local unit due in the ensuing fiscal year.

(g) The amount of proposed capital outlay expenditures, except those financed by enterprise, public improvement or building and site, or special assessment funds, including the estimated total cost and proposed method of financing of each capital construction project and the projected additional annual operating cost and the method of financing the operating costs of each capital construction project for 3 years beyond the fiscal year covered by the budget.

(h) An informational summary of projected revenues and expenditures of any special assessment funds, public improvement or building and site funds, intragovernmental service funds, or enterprise funds, including the estimated total cost and proposed method of financing each capital construction project, and the projected additional annual operating cost and the method of financing the operating costs of each capital construction project for 3 years beyond the fiscal year covered by the budget.

(i) Other data relating to fiscal conditions that the chief administrative officer or, in local units which have not elected or designated a chief administrative officer, the fiscal officer considers to be useful in considering the financial needs of the local unit.

(2) The total estimated expenditures, including an accrued deficit, in the budget shall not exceed the total estimated revenues, including an available unappropriated surplus and the proceeds from bonds or other obligations issued under the fiscal stabilization act or the balance of the principal of these bonds or other obligations.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 77, Imd. Eff. June 30, 1981.

141.436 General appropriations act; requirements; line items not mandated; taxation; limitation on estimated total expenditures.

Sec. 16. (1) Unless another method for adopting a budget is provided by a charter provision in effect on April 1, 1980, the legislative body of each local unit shall pass a general appropriations act for all funds except trust or agency, intragovernmental service, enterprise, public improvement or building and site, or special assessment funds for which the legislative body may pass a special appropriation act.

(2) The general appropriations act shall set forth the amounts appropriated by the legislative body to defray the expenditures and meet the liabilities of the local unit for the ensuing fiscal year, and shall set forth a statement of estimated revenues, by source, in each fund for the ensuing fiscal year.

(3) The general appropriations act shall be consistent with uniform charts of accounts prescribed by the state treasurer or, for local school districts and intermediate school districts, by the state board of education.

(4) This act shall not be interpreted to mandate the development or adoption by a local unit of a line-item budget or line-item general appropriations act.

(5) The legislative body shall determine the amount of money to be raised by taxation necessary to defray the expenditures and meet the liabilities of the local unit for the ensuing fiscal year, shall order that money to be raised by taxation, within statutory and charter limitations, and shall cause the money raised by taxation to be paid into the funds of the local unit.

(6) Except as otherwise permitted by section 102 of Act No. 94 of the Public Acts of 1979, as amended, being section 388.1702 of the Michigan Compiled Laws, or by other law, the legislative body shall not adopt a general appropriations act or an amendment to that act which causes estimated total expenditures, including an accrued deficit, to exceed total estimated revenues, including an available surplus and the proceeds from bonds or other obligations issued under the fiscal stabilization act or the balance of the principal of these bonds or other obligations.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 77, Imd. Eff. June 30, 1981;—Am. 1981, Act 78, Imd. Eff. June 30, 1981.

141.437 General appropriations act; amendment; reports; recommendations.

Sec. 17. Except as otherwise provided in section 19, a deviation from the original general appropriations act shall not be made without amending the general appropriations act. The legislative body of the local unit shall amend the general appropriations act as soon as it becomes apparent that a deviation from the original general appropriations act is necessary and the amount of the deviation can be determined. An amendment shall indicate each intended alteration in the purpose of each appropriation item affected by the amendment. The legislative body may require that the chief administrative officer or fiscal officer provide it with periodic reports on the financial condition of the local unit. If, during a fiscal year, it appears to the chief administrative officer, or the fiscal officer in local units which have not elected or designated a chief administrative officer, or to the legislative body that the actual and probable revenues from taxes and other sources in a fund are less than the estimated revenues, including an available surplus upon which appropriations from the fund were based and the proceeds from bonds or other obligations issued under the fiscal stabilization act or the balance of the principal of these bonds or other obligations, the chief administrative officer or fiscal officer shall present to the legislative body recommendations which, if adopted, would prevent expenditures from exceeding available revenues for that current fiscal year. The recommendations shall include proposals for reducing appropriations from the fund for budgetary centers in a manner that would cause the total of appropriations to not be greater than the total of revised estimated revenues of the fund, or proposals for measures necessary to provide revenues sufficient to meet expenditures of the fund, or both. The recommendations shall recognize the requirements of state law and the provisions of collective bargaining agreements.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 77, Imd. Eff. June 30, 1981.

Cited in other sections: Sections 141.437 to 141.440 are cited in §§141.1104, and 141.1212, and 141.1233.

141.438 Incurring debts or obligations; dividing appropriations into allotments; expenditures; application or division of money.

Sec. 18. (1) A member of the legislative body, chief administrative officer, fiscal officer, administrative officer, or employee of the local unit shall not create a debt or incur a financial obligation on behalf of the local unit unless the debt or obligation is permitted by law.

(2) The chief administrative officer or the fiscal officer may cause the appropriations made by the legislative body for the local unit and its budgetary centers to be divided into allotments if the allotments are based upon the periodic requirements of the local unit and its budgetary centers.

(3) Except as otherwise provided in section 19, an administrative officer of the local unit shall not incur expenditures against an appropriation account in excess of the amount appropriated by the legislative body. The chief administrative officer, the fiscal officer, an administrative officer, or an employee of the local unit shall not apply or divert money of the local unit for purposes inconsistent with those specified in the appropriations of the legislative body.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.439 Expenditure of funds; transfers within appropriations.

Sec. 19. (1) A member of the legislative body, the chief administrative officer, fiscal officer, an administrative officer, or an employee of a local unit shall not authorize or participate in the expenditure of funds except as authorized by a general appropriations act. An expenditure shall not be incurred except in pursuance of the authority and appropriations of the legislative body of the local unit.

(2) The legislative body in a general appropriations act may permit the chief administrative officer or fiscal officer to execute transfers within limits stated in the act between appropriations without the prior approval of the legislative body.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.440 Violation; filing; report; review and action by attorney general; civil action for recovery of funds and public property.

Sec. 20. A violation of sections 17 to 19 by the chief administrative officer, the fiscal officer, an administrative officer, employee, or member of the legislative body of the local unit disclosed in an audit of the financial records and accounts of the local unit in the absence of reasonable procedures in use by the local unit to detect such violations shall be filed with the state treasurer and reported by the state treasurer to the attorney general. For local and intermediate school districts, the report of a violation shall be filed with the state superintendent of public instruction instead of the state treasurer. The attorney general shall review the report and initiate appropriate action against the chief administrative officer, fiscal officer, administrative officer, employee, or member of the legislative body. For the use and benefit of the local unit, the attorney general or prosecuting attorney may institute a civil action in a court of competent jurisdiction for the recovery of funds of a local unit, disclosed by an examination to have been illegally expended or collected as a result of malfeasance and not accounted for as provided in sections 17 to 19, and for the recovery of public property disclosed to have been converted or misappropriated.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.440a Manuals, forms, and operating procedures; training and educational programs.

Sec. 20a. (1) The department of treasury shall publish suggested manuals, forms, and operating procedures which may be used by local units in complying with this act. These manuals, forms, and procedures shall be designed to account for the various kinds and sizes of local units, except that the suggested manuals, forms, and operating procedures which may be used by intermediate school districts and local school districts shall be developed by the superintendent of public instruction and shall be promulgated by the superintendent of public instruction pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The suggested manuals, forms, and operating procedures described in subsection (1) shall be developed by an advisory committee selected by the department of treasury composed of persons from the department of education, other interested state agencies, local units, associations of local units, and other interested or concerned groups.

(3) The department of treasury shall provide or cooperate in the provision of training and educational programs to assist local units to comply with this act.

History: Add. 1978, Act 621, Eff. Apr. 1, 1979.

MICHIGAN ELECTION LAW (EXCERPTS)

Act 116 of 1954

AN ACT to reorganize, consolidate and add to the election laws; to provide for election officials and prescribe their powers and duties; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to prescribe the penalties therefor; and to repeal certain acts and all other acts inconsistent herewith.

History: 1954, Act 116, Eff. June 1, 1955.

The People of the State of Michigan enact:

CHAPTER XVI.

TOWNSHIP OFFICES

168.341 Elective township offices and officers.

Sec. 341. Elective township offices shall consist of a supervisor, township clerk, township treasurer, not to exceed 4 constables, and not to exceed 4 trustees. Elective township officers may include library directors and park commission members.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1966, Act 44, Imd. Eff. June 2, 1966;—Am. 1980, Act 112, Imd. Eff. May 14, 1980.

Cited in other sections: Sections 168.341 to 168.373 are cited in §41.1b.

168.358 Election of township officers and submission of propositions; general November election.

Sec. 358. (1) In every township there shall be a general November election in each even-numbered year for the election of officers and the submission of propositions, as provided by law. At the 1980 general November election there shall be elected by ballot a supervisor; a clerk; a treasurer; 2 trustees; not more than 4 constables; and, if authorized by law and after a township takes the actions provided in section 11 of Act No. 164 of the Public Acts of 1877, as amended, being section 397.211 of the Michigan Compiled Laws, 6 free public library directors; and, after a township takes the actions provided in section 1 of Act No. 271 of the Public Acts of 1931, as amended, being section 41.441 of the Michigan Compiled Laws, 6 park commission members. Except as otherwise provided in this subsection, the order of offices on the township portion of the ballots shall be the same as the order in which the officers are listed in this subsection. Free public library directors shall be listed on the nonpartisan portion of the ballot.

(2) Subject to the limitation in subsection (1), the number of constables to be elected at the 1992 general November election and each general November election at which township offices are regularly to be elected after 1992 shall be determined by the township board by resolution not less than 6 months before the township primary election preceding the general election. The resolution that specifies the number of constables to be elected applies in that township until a subsequent resolution is adopted altering that number. If a determination as to the number of constables to be elected is not made by the township board by the deadline under this subsection for the 1992 general election, the number of constables to be elected shall be the same number that was elected in that township in the 1988 general November election until a resolution is adopted to provide for the election of a different number of constables.

(3) In a township having a population of 5,000 or more, or having 3,000 or more qualified and registered electors as shown by the registration records at the close of registration for the last preceding general November election, there may be elected 4 trustees. In other townships there shall be 2 trustees. A township shall not elect 4 trustees unless the election of additional trustees is approved by the voters at a general election or by a majority of the voters attending at an annual meeting. The township board of a township having a population of 5,000 or more, or having 3,000 or more qualified and registered electors, shall cause the question of electing additional trustees to be voted on at the first general November election or annual meeting following the township's qualifying for additional trustees. If a majority of the electors voting on the question vote in favor of electing 4 trustees, the township shall thereafter elect 4 trustees. If a majority of the electors voting on the question do not vote in favor of electing 4 trustees, the township board may resubmit the question at a subsequent general November election or annual meeting or the question shall be submitted at the first general November election or annual meeting held not less than 84 days following the submission of a petition containing the signatures of not less than 10% of the registered and qualified electors of the township, as shown by the registration records at the close of registration for the last general November election, asking that the question be submitted.

(4) At the first general November election in a township held not less than 4 months after the provisions of this section relative to additional trustees are adopted by a township, there shall be elected the number of trustees necessary to make a total of 4 trustees. If the additional trustees are elected at a general November election that is not a regular township election, the additional trustees shall hold office only until a successor is elected at the next regular township election and qualifies for office.

(5) This section does not prohibit townships electing 4 trustees as of September 13, 1958 from continuing to do so.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1958, Act 192, Eff. Sept. 13, 1958;—Am. 1966, Act 44, Imd. Eff. June 2, 1966;—Am. 1967, Act 215, Imd. Eff. Nov. 2, 1967;—Am. 1978, Act 5, Imd. Eff. Feb. 7, 1978;—Am. 1980, Act 112, Imd. Eff. May 14, 1980;—Am. 1982, Act 150, Imd. Eff. May 6, 1982;—Am. 1986, Act 33, Imd. Eff. Mar. 17, 1986;—Am. 1988, Act 431, Eff. Mar. 30, 1989;—Am. 1988, Act 433, Eff. Mar. 30, 1989;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990.

Cited in other sections: Section 168.358 is cited in §41.70.

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GENERAL SALES TAX ACT (EXCERPTS)

Act 167 of 1933

AN ACT to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1949, Act 272, Eff. July 1, 1949.

The People of the State of Michigan enact:

205.54 Deductions; filing estimated returns and annual periodic reconciliations; amounts not to be included in gross proceeds for computation of tax.

Sec. 4. (1) In computing the amount of tax levied under the provisions of this act for any month, the taxpayer may deduct the following amounts from the tax due under this act:

(a) For monthly tax payments for periods ending after January 1, 1983 and before January 1, 1984, the amount provided by subparagraph (*i*) or (*ii*), whichever is greater:

(*i*) If the tax that accrued to the state from the sales at retail during the preceding month is remitted to the department on or before the seventh day of the month in which remittance is due, 0.50% of the tax due for the preceding monthly period, but not to exceed $15,000.00 of the tax due for that month. If the tax that accrued to the state from the sales at retail during the preceding month is remitted to the department after the seventh day and on or before the fifteenth day of the month in which remittance is due, 0.25% of the tax due for the preceding monthly period, but not to exceed $10,000.00 of the tax due for that month.

(*ii*) The tax due on $100.00 of taxable gross proceeds for the preceding monthly period, or a prorated portion of $100.00 of the taxable gross proceeds for the preceding month if the taxpayer engaged in business for less than a month.

(b) For monthly tax payments for periods ending on or after January 1, 1984, the amount provided by subparagraph (*i*) or (*ii*), whichever is greater:

(*i*) If the tax that accrued to the state from the sales at retail during the preceding month is remitted to the department on or before the seventh day of the month in which remittance is due, 0.75% of the tax due for the preceding monthly period, but not to exceed $20,000.00 of the tax due for that month. If the tax that accrued to the state from the sales at retail during the preceding month is remitted to the department after the seventh day and on or before the fifteenth day of the month in which remittance is due, 0.50% of the tax due for the preceding monthly period, but not to exceed $15,000.00 of the tax due for that month.

(*ii*) The tax due on $150.00 of taxable gross proceeds for the preceding monthly period, or a prorated portion of $150.00 of the taxable gross proceeds for the preceding month if the taxpayer engaged in business for less than a month.

(2) A deduction shall not be allowed under this section for payments of taxes made to the department after the day the taxpayer is required to pay, pursuant to section 6, the tax imposed by this act.

(3) If, pursuant to section 6(4), the commissioner of revenue prescribes the filing of returns and the payment of the tax for periods in excess of 1 month, a taxpayer shall be entitled to a deduction from the tax collections remitted to the department for the extended payment period that is equivalent to the deduction allowed under subsection (1) for monthly periods. If portions of the extended payment period prescribed by the commissioner of revenue occurs in both 1983 and 1984, the deduction shall be computed using the applicable percentage or fixed deduction prescribed in subsection (1)(a) for taxes accruing to the state in 1983 and the applicable percentage or fixed deduction prescribed in subsection (1)(b) for taxes accruing to the state in 1984.

(4) The commissioner may prescribe the filing of estimated returns and annual periodic reconciliations as necessary to carry out the purposes of this section.

(5) A person subject to a tax under this act shall not include in the amount of his or her gross proceeds used for the computation of the tax any proceeds of his or her business derived from sales to the United States, its unincorporated agencies and instrumentalities, any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American Red Cross and its chapters and branches, and this state or its departments and institutions or any of its political subdivisions.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.54;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1981, Act 219, Eff. Mar. 31, 1982.

205.54a Deductible sales.

Sec. 4a. A person subject to tax under this act need not include in the amount of the gross proceeds used for the computation of the tax, sales of tangible personal property:

(a) Not for resale, and when not operated for profit, to a school, hospital, home for the care and maintenance of children or aged persons, or other health, welfare, educational, cultural arts, charitable, or benevolent institution or agency, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of the state, if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or any restricted group. At the time of the transfer of this tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the operation of the institution or agency and that the institution or agency qualifies as an exempt entity under this subdivision. The statement shall be accepted by all courts as prima facie evidence of the exemption and the statement shall provide that if the claim for tax exemption is disallowed the transferee will reimburse the transferor for the amount of tax involved. A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under this act. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of social services pursuant to Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

(b) Not for resale to a regularly organized church or house of religious worship, except:

(*i*) Sales in activities that are mainly commercial enterprises.

(*ii*) Sales of vehicles licensed for use on public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(c) To bona fide enrolled students, of food by a school or other educational institution not operated for profit.

(d) Affixed to and made a structural part of real estate excepted from the definition of "sale at retail" under section 1(1)(c).

(e) To persons, of a vessel designated for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of the vessel engaged in interstate commerce.

(f) To persons engaged in a business enterprise and using or consuming the tangible personal property in the tilling, planting, caring for, or harvesting of the things of the soil; in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth or in the direct gathering of fish, by net, line, or otherwise, only by an owner-operator of the business enterprise, not including a charter fishing business enterprise. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land, and, beginning January 1, 1987, subsurface irrigation pipe, if the land tile or irrigation pipe is used in the production of agricultural products as a business enterprise. At the time of the transfer of this tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise, or in connection with fishing as an owner-operator business enterprise. The statement shall be accepted by all courts as prima facie evidence of the exemption. This exemption includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or any similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate.

(g) To the following:

(*i*) An industrial processor for use or consumption in industrial processing. Property used or consumed in industrial processing does not include tangible personal property permanently affixed and becoming a structural part of real estate; office furniture, office supplies, and administrative office equipment; or vehicles licensed and titled for use on public highways. Industrial processing does not include receiving and storage of raw materials purchased or extracted by the user or consumer; or the preparation of food and beverages by a retailer for retail sale. As used in this subdivision, "industrial processor" means a person who transforms, alters, or modifies tangible personal property by changing the form, composition, or character of the property for ultimate sale at retail or sale to another industrial processor to be further processed for ultimate sale at retail. Sales to a person performing a service who does not act as an industrial processor while performing this service shall not be excluded under this subdivision except as provided in subparagraph (*ii*).

(*ii*) After December 31, 1984, a person, whether or not the person is an industrial processor, if the tangible personal property is a computer used in operating industrial processing equipment; equipment used in a computer assisted manufacturing system; equipment used in a computer assisted design or engineering system integral to an industrial process; or a subunit or electronic assembly comprising a component in a computer integrated industrial processing system.

(h) To persons, of a newspaper or periodical admitted under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established not less than 2 years, and published not less than once a week, and copyrighted motion picture films. Tangible personal property used or consumed, and not becoming a component part of a newspaper or periodical, except that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical, and copyrighted motion picture films are subject to tax. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical, and thereby not subject to tax, shall include an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(i) To persons licensed to operate commercial radio or television stations if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmission to or receiving from an artificial satellite.

(k) A hearing aid, contact lenses if prescribed for a specific disease that precludes the use of eyeglasses, or any other apparatus, device, or equipment used to replace or substitute for a part of the human body, or used to assist the disabled person to lead a reasonably normal life if the tangible personal property is purchased on a written prescription or order issued by a licensed health professional as defined by section 21005 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.21005 of the Michigan Compiled Laws, or eyeglasses prescribed or dispensed to correct the person's vision by an ophthalmologist, optometrist, or optician.

(*l*) To persons for use or consumption in the rendition of a service, the use or consumption of which is taxable under section 3a(a) of the use tax act, Act No. 94 of the Public Acts of 1937, as amended, being section 205.93a of the Michigan Compiled Laws, except that this exemption shall be limited to the tangible personal property located on the premises of the subscriber and the necessary exchange equipment.

(m) Not for resale of a vehicle to a Michigan nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(n) To inmates in a penal or correction institution purchased with scrip issued and redeemed by the institution.

(o) To or for the use of students enrolled in any part of a kindergarten through twelfth grade program, of textbooks sold by a public or nonpublic school.

(p) Installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to Act No. 222 of the Public Acts of 1966, as amended, being sections 323.351 to 323.358 of the Michigan Compiled Laws, or an air pollution control facility for which a tax exemption certificate is issued pursuant to Act No. 250 of the Public Acts of 1965, as amended, being sections 336.1 to 336.8 of the Michigan Compiled Laws.

(q) To a purchaser of a new motor vehicle purchased before January 1, 1993 if the purchaser qualifies for a special registration under section 226(12) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.226 of the Michigan Compiled Laws, and the vehicle is purchased through a country determined by the department to be providing a like or complete exemption for the purchase of a new motor vehicle to be removed from that country.

History: Add. 1935, Act 77, Imd. Eff. May 23, 1935;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.54a;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1950, 1st Ex. Sess., Act 9, Imd. Eff. May 9, 1950;—Am. 1951, Act 245, Eff. Sept. 28, 1951;—Am. 1952, Act 165, Imd. Eff. Apr. 24, 1952;—Am. 1953, Act 204, Imd. Eff. June 10, 1953;—Am. 1955, Act 76, Imd. Eff. May 26, 1955;—Am. 1958, Act 52, Eff. July 1, 1958;—Am. 1962, Act 220, Eff. July 1, 1962;—Am. 1970, Act 16, Eff. May 1, 1970;—Am. 1971, Act 207, Imd. Eff. Dec. 29, 1971;—Am. 1973, Act 136, Imd. Eff. Nov. 9, 1973;—Am. 1976, Act 33, Imd. Eff. Mar. 5, 1976;—Am. 1978, Act 263, Imd. Eff. June 29, 1978;—Am. 1978, Act 498, Imd. Eff. Dec. 11, 1978;—Am. 1982, Act 218, Eff. Jan. 1, 1984;—Am. 1985, Act 16, Imd. Eff. May 16, 1985;—Am. 1986, Act 51, Imd. Eff. Mar. 17, 1986;—Am. 1987, Act 87, Imd. Eff. July 1, 1987;—Am. 1988, Act 519, Imd. Eff. Jan. 19, 1989;—Am. 1990, Act 143, Imd. Eff. June 27, 1990;—Am. 1991, Act 87, Imd. Eff. July 18, 1991.

Cited in other sections: Section 205.54a is cited in §§21.142a, 205.94 and 207.112.

USE TAX ACT (EXCERPT)

Act 94 of 1937

AN ACT to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act.

History: 1937, Act 94, Eff. Oct. 29, 1937;—Am. 1959, Act 263, Eff. Sept. 1, 1959;—Am. 1960, 2nd Ex. Sess., Act 2, Eff. Jan. 1, 1961.

The People of the State of Michigan enact:

205.94 Exemptions.

Sec. 4. The tax levied shall not apply to:

Property on which sales tax paid.

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Michigan Compiled Laws, if the tax was due and paid on the retail sale to a consumer.

Federal or constitutional exemptions.

(b) Property, the storage, use, or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state.

Property purchased for resale, demonstration purposes, or for lending or leasing to schools for driver education.

(c) Property purchased for resale, demonstration purposes, or lending or leasing to a public or parochial school offering a course in automobile driving except that a vehicle purchased by the school shall be certified for driving education and shall not be reassigned for personal use by the school's administrative personnel. For a dealer selling a new car or truck, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediate prior year without regard to specific make or style in accordance with the following schedule: 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in 1 calendar year for demonstration purposes.

Property of nonresident.

(d) Property that is brought into this state by a nonresident person for storage, use, or consumption while temporarily within this state, except when the property is used in this state in a nontransitory business activity for a period exceeding 15 days.

Property taxed out of state; reciprocity.

(e) Property the sale or use of which was already subjected to a sales tax or use tax equal to, or in excess of, that imposed by this act under the law of any other state or a local governmental unit within a state if the tax was due and paid on the retail sale to the consumer and the state or local governmental unit within a state in which the tax was imposed accords like or complete exemption on property the sale or use of which was subjected to the sales or use tax of this state. If the sale or use of property was already subjected to a tax under the law of any other state or local governmental unit within a state in an amount less than the tax imposed by this act, this act shall apply, but at a rate measured by the difference only between the rate provided in this act and the rate by which the previous tax was computed.

Agricultural, livestock, poultry, and horticultural production.

(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. In that case, at the time of the transfer of the tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. The statement shall be accepted by the courts as prima facie evidence of the exemption. Beginning January 1, 1989, this exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption shall not include tangible personal property permanently affixed and becoming a structural part of real estate.

Industrial processing.

(g) Property sold to the following:

(*i*) An industrial processor for use or consumption in industrial processing. Property used or consumed in industrial processing does not include tangible personal property permanently affixed and becoming a structural part of real estate; office furniture, office supplies, and administrative office equipment; or vehicles licensed and titled for use on public highways. Industrial processing does not include receipt and storage of raw materials purchased or extracted by the user or consumer, or the preparation of food and beverages by a retailer for retail sale. As used in this subdivision, "industrial processor" means a person who transforms, alters, or modifies tangible personal property by changing the form, composition, or character of the property for ultimate sale at retail or sale to another industrial processor to be further processed for ultimate sale at retail. Sales to a person performing a service who does not act as an industrial processor while performing the service may not be excluded under this subdivision, except as provided in subparagraph (*ii*).

(*ii*) After December 31, 1984, a person, whether or not the person is an industrial processor, when the property is a computer used in operating industrial processing equipment; equipment used in a computer assisted manufacturing system; equipment used in a computer assisted design or engineering system integral to an industrial process; or a subunit or electronic assembly comprising a component in a computer integrated industrial processing system.

Sales to federal government, red cross, state, or political subdivisions.

(h) Property or services sold to the United States, an unincorporated agency or instrumentality of the United States, an incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters or branches, this state, a department or institution of this state, or a political subdivision of this state.

Nonprofit institutions and organizations.

(i) Property or services sold to a school, hospital, home for the care and maintenance of children or aged persons, or other health, welfare, educational, cultural arts, charitable, or benevolent institution or agency, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, when not operated for profit, and when the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and when the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or a restricted group. The tax levied shall not apply to property or services sold to a parent cooperative preschool. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, which provides an educational and developmental program for children younger than compulsory school age, which provides an educational program for parents, including active participation with children in preschool activities, which is directed by qualified preschool personnel, and which is licensed by the department of social services pursuant to Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

Churches.

(j) Property or services sold to a regularly organized church or house of religious worship except:

(*i*) Sales in which the property is used in activities that are mainly commercial enterprises.

(*ii*) Sales of vehicles licensed for use on the public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

Commercial vessels.

(k) A vessel designed for commercial use of registered tonnage of 500 tons or more, when produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

Nonprofit hospital or housing.

(*l*) Property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent the property is affixed to and made a structural part of the real estate of a nonprofit hospital or a nonprofit housing entity qualified as exempt pursuant to section 15a of the state housing development authority act of 1966, Act No. 346 of the Public Acts of 1966, as amended, being section 125.1415a of the Michigan Compiled Laws. A nonprofit hospital or nonprofit housing includes only the property of a nonprofit hospital or the homes or dwelling places constructed by a nonprofit housing entity, the income or property of which does not directly or indirectly inure to the benefit of an individual, private stockholder, or other private person.

Property purchased outside state.

(m) Property purchased for use in this state where actual personal possession is obtained outside this state, the purchase price or actual value of which does not exceed $10.00 during 1 calendar month.

Publications and films.

(n) A newspaper or periodical classified under federal postal laws and regulations effective September 1, 1985 as second class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed, and not becoming a component part of a newspaper or periodical, except that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical, and a copyrighted motion picture film is subject to tax. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical, and thereby not subject to tax, shall include an advertising supplement inserted into and circulated with a newspaper or periodical which is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

Property used in origination or integration of various sources of program material for commercial radio or television transmission.

(o) Property purchased by persons licensed to operate a commercial radio or television station when the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmitting to or receiving from an artificial satellite.

Automobile purchased outside state by resident military personnel.

(p) A person who is a resident of this state who purchases an automobile in another state while in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

Specially registered vehicles.

(q) A vehicle for which a special registration is secured in accordance with section 226(9) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended, being section 257.226 of the Michigan Compiled Laws.

Hearing aids, contact lenses, apparatus, device, or equipment to replace part of human body; eyeglasses.

(r) A hearing aid, contact lenses if prescribed for a specific disease which precludes the use of eyeglasses, or any other apparatus, device, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life when the tangible personal property is purchased on a written prescription or order issued by a licensed health professional as defined by section 4 of former Act No. 264 of the Public Acts of 1974, as amended, being section 325.904 of the Michigan Compiled Laws, or section 21005 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.21005 of the Michigan Compiled Laws, or eyeglasses prescribed or dispensed to correct the person's vision by an ophthalmologist, optometrist, or optician.

Water.

(s) Water when delivered through water mains or in bulk tanks in quantities of not less than 500 gallons.

Communications service equipment.

(t) The purchase of machinery and equipment for use or consumption in the rendition of a service, the use or consumption of which is taxable under section 3a(a) except that this exception is limited to the tangible personal property located on the premises of the subscriber and the necessary exchange equipment.

Ambulances; fire department vehicles.

(u) A vehicle not for resale used by a nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

Component part of water or air pollution control facility.

(v) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to Act No. 222 of the Public Acts of 1966, as amended, being sections 323.351 to 323.358 of the Michigan Compiled Laws, or an air pollution control facility for which a tax exemption certificate is issued pursuant to Act No. 250 of the Public Acts of 1965, as amended, being sections 336.1 to 336.8 of the Michigan Compiled Laws.

Donations to exempt organization or entity.

(w) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (i) or (j) or section 4a(a) or (b) of the general sales tax act, Act No. 167 of the Public Acts of 1933, as amended, being section 205.54a of the Michigan Compiled Laws.

Aircraft.

(x) The storage, use, or consumption of any aircraft owned or used by a domestic passenger air carrier operating under a certificate issued by the civil aeronautics board pursuant to section 401 of title IV of the federal aviation act of 1958, 49 U.S.C. 1371, if the aircraft is used primarily in the regularly scheduled commercial transport of passengers.

History: 1937, Act 94, Eff. Oct. 29, 1937;—Am. 1945, Act 180, Imd. Eff. May 16, 1945;—CL 1948, 205.94;—Am. 1949, Act 273, Eff. July 1, 1949;—Am. 1950, 1st Ex. Sess., Act 7, Imd. Eff. May 8, 1950;—Am. 1952, Act 164, Imd. Eff. Apr. 24, 1952;—Am. 1953, Act 203, Imd. Eff. June 10, 1953;—Am. 1955, Act 235, Eff. Oct. 14, 1955;—Am. 1959, Act 263, Eff. Sept. 1, 1959;—Am. 1959, Act 272, Eff. Jan. 1, 1960;—Am. 1962, Act 219, Eff. July 1, 1962;—Am. 1964, Act 164, Eff. Aug. 28, 1964;—Am. 1969, Act 214, Imd. Eff. Aug. 6, 1969;—Am. 1970, Act 15, Eff. May 1, 1970;—Am. 1971, Act 208, Imd. Eff. Dec. 29, 1971;—Am. 1976, Act 29, Imd. Eff. Mar. 5, 1976;—Am. 1976, Act 72, Imd. Eff. Apr. 7, 1976;—Am. 1978, Act 262, Imd. Eff. June 29, 1978;—Am. 1978, Act 457, Imd. Eff. Oct. 16, 1978;—Am. 1984, Act 288, Imd. Eff. Dec. 20, 1984;—Am. 1986, Act 48, Imd. Eff. Mar. 17, 1986;—Am. 1986, Act 52, Imd. Eff. Mar. 17, 1986;—Am. 1987, Act 141, Imd. Eff. July 24, 1987;—Am. 1988, Act 459, Imd. Eff. Dec. 27, 1988;—Am. 1989, Act 141, Imd. Eff. June 29, 1989.

Compiler's note: Section 2 of Act 52 of 1986 provides: "It is the intent of the legislature that this amendatory act be curative of any past misinterpretation of the coverage of the exemption provided by subdivision (n) of this amendatory act."

INCOME TAX ACT OF 1967 (EXCERPT)

Act 281 of 1967

AN ACT to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts.

History: 1967, Act 281, Eff. Oct. 1, 1967.

The People of the State of Michigan enact:

CHAPTER 5

206.260 Tax credit for certain charitable contributions; limitations; definitions; limitation on sum of credits.

Sec. 260. (1) A taxpayer may credit against the tax imposed by this act for the taxable year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the year to any of the following:

(a) This state pursuant to the Faxon-McNamee art in public places act, Act No. 105 of the Public Acts of 1980, being sections 18.71 to 18.81 of the Michigan Compiled Laws, of an artwork created by the taxpayer, for display in a public place.

(b) The state art in public places fund created pursuant to Act No. 105 of the Public Acts of 1980.

(c) A municipality in this state of an artwork created by the personal effort of the taxpayer for display in a public place.

(d) Either a municipality of this state or a nonprofit corporation affiliated with both a municipality and an art institute located in the municipality, of money or artwork, whether or not created by the personal effort of the taxpayer, if for the purpose of benefiting an art institute located in that municipality.

(e) A public library.

(f) A public broadcast station as defined by section 397 of subpart d of title III of the communications act of 1934, 47 U.S.C. 397, that is not affiliated with an institution of higher education and that is located within this state.

(g) An institution of higher learning located within this state.

(h) The Michigan colleges foundation.

(i) The state museum.

(j) The department of state for the purpose of preservation of the state archives.

(k) A nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within this state. A tax credit for a contribution described in this subdivision is permitted only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution benefiting from the charitable contribution. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the senate and house appropriations committees.

(2) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a taxable year shall not exceed $100.00, or for a husband and wife filing a joint return as provided in section 311, $200.00.

(3) For a resident estate or trust, the amount allowable as a credit under this section for a taxable year shall not exceed 10% of the tax liability for the year as determined without regard to this section or $5,000.00, whichever is less.

(4) For the purpose of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It awards associate, bachelors, masters, or doctoral degrees or a combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(d) It is recognized by the state board of education as an institution of higher learning and appears as such in the annual publication of the department of education entitled "The Directory of Institutions of Higher Education".

(5) "Public library" means that term as defined in section 2 of the state aid to public libraries act, Act No. 89 of the Public Acts of 1977, being section 397.552 of the Michigan Compiled Laws.

(6) As used in subsection (1), "contributions made by the taxpayer" includes, but is not limited to, the fair market value of artwork created by the personal effort of the taxpayer that is donated to and accepted as a donation by a qualified organization. The fair market value of a piece of artwork shall be determined at the time of the donation by independent appraisal. For purposes of this subsection and subsection (1), "artwork" means an original, visual creation of quality executed in any size or shape, in any media, using any kind or type of materials.

(7) The sum of the credits allowed by section 257 and this section shall not be in excess of the tax liability of the taxpayer.

History: Add. 1968, Act 315, Eff. Nov. 15, 1968;—Am. 1972, Act 332, Imd. Eff. Jan. 4, 1973;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 290, Imd. Eff. Oct. 15, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1979, Act 199, Eff. Mar. 27, 1980;—Am. 1980, Act 475, Eff. Mar. 31, 1981;—Am. 1984, Act 419, Imd. Eff. Dec. 28, 1984;—Am. 1988, Act 153, Imd. Eff. June 14, 1988.

Compiler's note: Section 2 of Act 153 of 1988 provides: "This amendatory act shall take effect for tax years beginning after 1987."

Cited in other sections: Section 206.260 is cited in §21.272.

SINGLE BUSINESS TAX ACT (EXCERPTS)

Act 228 of 1975

AN ACT to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation.

History: 1975, Act 228, Eff. Jan. 1, 1976.

The People of the State of Michigan enact:

CHAPTER 2

208.38 Tax credit for charitable contributions to public broadcast station; limitations; conditions; annual report; financial statements; definitions.

Sec. 38. (1) At the election of taxpayers not subject to Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.532 of the Michigan Compiled Laws, there shall be allowed as a credit against the tax imposed by this act for the taxable year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the year to a public broadcast station as defined by 47 U.S.C. 397 which is not affiliated with an institution of higher education, public libraries, institutions of higher learning located within this state, the Michigan colleges foundation, or to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning. An institution of higher learning which receives the contributions through a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of the institution of higher learning, shall make an annual report to the chairpersons of the house and senate appropriations committees and the house taxation committee and senate finance committee indicating in what manner the contributions were or are being used and any specific conditions under which a particular contribution was received and how the money or property from that contribution was or is being used. The report shall be due not later than February 1 for the immediately preceding calendar year and shall be issued in 1981 and 1982 only. The tax credit shall be permitted only where the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing boards of the institutions benefiting from the charitable contributions. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of their annual independently audited financial statements to the auditor general of the state and chairpersons of the senate and house appropriations committees.

(2) The amount allowable as a credit under this section for any taxable year shall not exceed 5% of the tax liability for that year as determined without regard to this section or $5,000.00, whichever is less.

(3) As used in this section, "institution of higher learning" means an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It awards associate, bachelors, masters, or doctoral degrees or any combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(d) It is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of education entitiled "the directory of institutions of higher education".

(4) As used in this section, "public library or libraries" means a public library as defined in section 2 of Act No. 89 of the Public Acts of 1977, being section 397.552 of the Michigan Compiled Laws.

(5) The credit allowed by this section shall not be in excess of the tax liability of the taxpayer.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1980, Act 318, Imd. Eff. Dec. 9, 1980.

Compiler's note: Section 2 of Act 318 of 1980 provides: "This amendatory act shall take effect for tax years commencing January 1, 1980."

In subsection (3)(d) the word "entitiled" evidently should read "entitled".

Cited in other sections: Section 208.38 is cited in §21.273.

CHAPTER 6

208.134 Payments to cities, villages, and townships.

Sec. 134. (1) The department of treasury shall calculate the amount of payment to be made to a city, village, or township by multiplying the amount of state equalized value of tax exempt inventory property as certified by the department of treasury under section 132 times the property tax rate for each taxing unit as certified each year to the department of treasury for purposes of this act. The amount due under this section, including any accrued interest, shall be paid to the cities and villages between July 1 and October 2 of each year. The townships shall receive their funds by February 1 of each year.

(2) Payments made under this section and section 136, and the allocation and appropriation of amounts necessary to make the payments under this section and section 136, shall include interest which shall accrue on the unpaid balance from October 2 for payments under this section to cities and villages, from February 1 for payments under this section to townships, and from the date each year the distributions under section 136 are required to have been paid. Interest shall accrue at the rate determined under section 13b of the state revenue sharing act, Act No. 140 of the Public Acts of 1971, being section 141.913b of the Michigan Compiled Laws.

(3) A payment required to be made under this section or section 136 shall not be delayed so as to cause interest to accrue pursuant to subsection (2) unless the delay in any payment is authorized by a written directive issued and signed by the governor which directive shall conform to and be subject to subsections (2) and (3) of section 13b of the state revenue sharing act.

(4) Amounts required to be paid pursuant to this section or section 136 that are subject to an unavoidable delay of a de minimis period or that are withheld or set off pursuant to law in the settlement or adjustment of an obligation or debt due to this state shall not be subject to subsections (2) and (3).

(5) The state treasurer may make a disbursement for a payment under this section or section 136 which has been delayed in advance of the date the delayed payment is expected to be paid.

(6) For the payments due in February 1988 and February 1989 only, a city, village, or township that received a payment in February 1987 that was based upon a local tax rate that included special assessments shall not receive less than the amount received in February 1987. A payment shall not be made in 1989 to a township pursuant to this subsection unless the township becomes a charter township or city prior to February 1, 1989.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1983, Act 235, Imd. Eff. Dec. 1, 1983;—Am. 1987, Act 267, Imd. Eff. Dec. 29, 1987.

Cited in other sections: Section 208.134 is cited in §§110.20, 117.4a, 117.5, and 125.77b.

208.135 Payments to counties.

Sec. 135. (1) The department of treasury shall pay to each county by February 1 of each year, following the year the amount was calculated, an amount of money equal to the product of the state equalized value based upon inventory as certified by the department of treasury under section 132 times the county property tax rate for the county as reported to the department of treasury under section 138.

(2) Payments made under this section and the allocation and appropriation of amounts necessary to make the payments under this section shall include interest, which shall accrue on the unpaid balance from February 1, at a rate of interest determined under section 13b of the state revenue sharing act, Act No. 140 of the Public Acts of 1971, being section 141.913b of the Michigan Compiled Laws.

(3) A payment required to be made under this section shall not be delayed so as to cause interest to accrue pursuant to subsection (2) unless the delay in any payment is authorized by a written directive issued and signed by the governor which directive shall conform to and be subject to subsections (2) and (3) of section 13b of the state revenue sharing act.

(4) Amounts required to be paid pursuant to this section that are subject to an unavoidable delay of a de minimis period or that are withheld or set off pursuant to law in the settlement or adjustment of an obligation or debt due to this state shall not be subject to subsections (2) and (3).

(5) The state treasurer may make a disbursement for payment under this section which has been delayed in advance of the date the delayed payment is expected to be paid.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1983, Act 234, Imd. Eff. Dec. 1, 1983.

208.136 Totaling amounts payable to cities, villages, and townships; distribution of additional amount through tax effort formula; method of calculating growth in payments; determination of amount to replace payments from intangibles tax.

Sec. 136. (1) The department of treasury shall total the amounts payable to cities, villages, and townships under section 134 between July 1, 1976 and February 1, 1977, but excluding any payments under section 137.

(2) Between July 1, 1977 and February 28, 1978, an additional amount of the single business tax equal to 5% of the amount calculated in subsection (1) shall be distributed to all cities, villages, and townships through the tax effort formula as defined in the state revenue sharing act of 1971, Act No. 140 of the Public Acts of 1971, as amended, being sections 141.901 to 141.921 of the Michigan Compiled Laws.

(3) For every year following June 30, 1978, the growth in the single business tax payable to cities, villages, and townships by the tax effort formula is calculated in the following manner:

(a) The percentage that the amount calculated in subsection (1) is of the gross collections before refunds of the single business tax from July 1, 1976, through June 30, 1977.

(b) The percentage calculated in subdivision (a) is multiplied by the gross collections before refunds of the single business tax from each July 1 through June 30, starting with the gross collections before refunds from July 1, 1977, through June 30, 1978. From this amount subtract the amount necessary to make the payments to cities, villages, and townships under section 134 for the same year. The difference shall be distributed to cities, villages, and townships by the tax effort formula between October 1 and February 28 following the calculation based upon the preceding June 30. At least 1/2 of this payment shall be distributed before November 1 in any year that money is distributed under this section. Funds not distributed pursuant to this subdivision after March 1, 1992 and before October 1, 1992 shall lapse to the general fund at the close of the fiscal year ending September 30, 1992.

(4) During each June, starting in 1976, the department of treasury shall distribute to cities, villages, and townships through the tax effort formula, as defined in Act No. 140 of the Public Acts of 1971, an amount to replace payments to cities, villages, and townships from the intangibles tax previously made under section 13 of Act No. 140 of the Public Acts of 1971, as amended, being section 141.913 of the Michigan Compiled Laws, determined as follows:

(a) For the June 1976 payment only, $35,000,000.00 of the collections of the tax levied by this act and for the June 1977 payment only, $35,000,000.00 of the collections of the tax levied by this act.

(b) For payments after January 1, 1978, a percentage of the gross collections before refunds of the tax levied by this act for the most recent fully completed July 1 through June 30 period as certified by the department of treasury as of May 31. The percentage set aside for distribution is calculated by dividing $40,000,000.00 by the gross collections before refunds of the single business tax from July 1, 1976, through June 30, 1977. For the 1992-1993 state fiscal year, the amount determined under this subsection shall be reduced by $11,775,000.00 before the distribution under this subsection is made.

History: 1975, Act 228, Eff. Jan. 1, 1976;—Am. 1992, Act 69, Imd. Eff. May 28, 1992;—Am. 1992, Act 159, Imd. Eff. July 16, 1992.

Cited in other sections: Section 208.136 is cited in §§110.20, 117.4a, 117.5, 125.77b, and 141.913.

208.137 Calculation and payment of proportionate share of reimbursements to eligible authority.

Sec. 137. (1) The treasurer of any city, village, township, or county who collects money for an authority that levies property taxes, shall pay an eligible authority its proportionate share of the reimbursements under sections 134 and 135. The proportionate share shall be calculated by the percentage that the property taxes collected by the authority are to the property taxes of the assessing unit. The property taxes of such authorities may be added to the millages used in section 134.

(2) For an authority to be eligible for compensation under this act, that authority must have an authorization to have taxes levied for its use as provided by law.

(3) School districts, intermediate school districts, community college districts, vocational education, and special education districts shall not be included under the provisions of this chapter.

History: 1975, Act 228, Eff. Jan. 1, 1976.

Cited in other sections: Section 208.137 is cited in §331.4.

THE GENERAL PROPERTY TAX ACT (EXCERPTS)

Act 206 of 1893

AN ACT to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act.

History: 1893, Act 206, Eff. June 12, 1893;—Am. 1939, Act 37, Imd. Eff. Apr. 13, 1939;—Am. 1941, Act 234, Imd. Eff. June 16, 1941;—Am. 1949, Act 317, Eff. Sept. 23, 1949;—Am. 1975, Act 334, Imd. Eff. Jan. 12, 1976;—Am. 1981, Act 6, Imd. Eff. Apr. 16, 1981;—Am. 1983, Act 254, Imd. Eff. Dec. 29, 1983.

The People of the State of Michigan enact:

REAL ESTATE EXEMPTIONS.

211.7n Nonprofit theater, library, educational, or scientific institution; nonprofit organization fostering development of literature, music, painting, or sculpture.

Sec. 7n. Real estate or personal property owned and occupied by nonprofit theater, library, educational, or scientific institutions incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which the institutions were incorporated is exempt from taxation under this act. In addition, real estate or personal property owned and occupied by a nonprofit organization organized under the laws of this state devoted exclusively to fostering the development of literature, music, painting, or sculpture which substantially enhances the cultural environment of a community as a whole, is available to the general public on a regular basis, and is occupied by it solely for the purposes for which the organization was incorporated is exempt from taxation under this act.

History: Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1981, Act 212, Imd. Eff. Dec. 30, 1981.

PERSONAL PROPERTY EXEMPTED.

211.9 Personal property exempt from taxation.

Sec. 9. The following personal property is exempt from taxation:

Charitable, educational, and scientific institutions; charitable homes.

(a) The personal property of charitable, educational, and scientific institutions incorporated under the laws of this state. This exemption does not apply to secret or fraternal societies, but the personal property of all charitable homes of the societies and nonprofit corporations that own and operate facilities for the aged and chronically ill in which the net income from the operation of the corporations does not inure to the benefit of a person other than the residents is exempt.

Libraries and reading rooms.

(b) The property of all library associations, circulating libraries, libraries of reference, and reading rooms owned or supported by the public and not used for gain.

Patriotic, religious, and youth organizations.

(c) The property of posts of the grand army of the republic, sons of veterans' unions, and of the women's relief corps connected therewith, of young men's Christian associations, women's Christian temperance union associations, young people's Christian unions, a boy or girl scout or camp fire girls organization, 4-H clubs, and other similar associations.

Federal pensions.

(d) Pensions receivable from the United States.

Indians not citizens.

(e) The property of Indians who are not citizens.

Householders.

(f) The personal property owned and used by a householder such as customary furniture, fixtures, provisions, fuel, and other similar equipment, and the wearing apparel including personal jewelry, family pictures, school books, library books of reference, and allied items. Personal property is not exempt under this subdivision if it is used to produce income, if it is held for speculative investment, or if it constitutes an inventory of goods for sale in the regular course of trade.

Fraternities, sororities, and student cooperatives.

(g) Household furnishings, provisions, and fuel to the state equalized value of not more than $5,000.00, to each social or professional fraternity, sorority, and student cooperative house recognized by the educational institution at which it is located.

Mechanic's tools.

(h) The working tools of a mechanic to the state equalized value of not more than $500.00. "Mechanic", as used in this subdivision, means a person skilled in a trade pertaining to a craft or in the construction or repair of machinery if the person's employment by others is dependent on his or her furnishing the tools.

Fire fighting equipment.

(i) Fire engines and other implements used in extinguishing fires owned or used by an organized or independent fire company.

Property used in agricultural operations.

(j) Property actually being used in agricultural operations and the farm implements held for sale or resale by retail servicing dealers for use in agricultural production. As used in this subdivision, "agricultural operations" means farming in all its branches, including cultivation of the soil, growing and harvesting of an agricultural, horticultural, or floricultural commodity, dairying, raising of livestock, bees, fur-bearing animals, or poultry, turf and tree farming, raising and harvesting of fish, and any practices performed by a farmer or on a farm as an incident to, or in conjunction with, farming operations, but excluding retail sales operations.

Business property.

(k) Personal property to the state equalized value of not more than $500.00 used by a householder in the operation of a business in the householder's dwelling or at 1 other location in the city, township, or village where the householder resides.

Products, materials, or goods in public warehouse, United States customs port of entry bonded warehouse, dock, or port facility.

(*l*) The products, materials, or goods processed or otherwise and in whatever form, but expressly excepting alcoholic beverages, located in a public warehouse, United States customs port of entry bonded warehouse, dock, or port facility on December 31 of each year, if those products, materials, or goods are designated as in transit to destinations out of state pursuant to the published tariffs of a railroad or common carrier by the filing of the freight bill covering the products, materials, or goods with the agency designated by the tariffs, so as to entitle the shipper to transportation rate privileges. Products in a United States customs port of entry bonded warehouse that arrived from another state or a foreign country, whether awaiting shipment to another state or to a final destination within this state, shall be considered to be in transit and temporarily at rest, and not subject to personal property taxation. To obtain exemption, the owner shall file a sworn statement with, and in the form required by, the assessing officer of the tax district in which the warehouse, dock, or port facility is located, at a time between the tax day, December 31, and before closing of the assessment rolls by the assessing officer, describing the products, materials, or goods, and reporting their cost and value as of December 31 of each year. The status of persons, and products, materials, or goods for which exemption is requested shall be determined as of December 31, which shall be the tax day. The assessment on the basis of average monthly inventory shall not apply in valuing products, materials, or goods for which exemption is requested. Any property located in a public warehouse, dock, or port facility on December 31 of each year, which is exempt from taxation under this subdivision but which is not shipped outside the state pursuant to the particular tariff under which the transportation rate privilege was established, shall be assessed upon the next succeeding or a subsequent assessment roll by the assessing officer and taxed at the same rate of taxation as other taxable properties for the year or years for which the property was exempted, to the owner at the time of the omission, unless the owner or person entitled to possession of the products, materials, or goods is a resident of, or authorized to do business in, this state and files with the assessing officer, with whom statements of taxable property are required to be filed, a statement under oath that the products, materials, or goods are not for sale or use in this state and will be shipped to a point or points outside this state. If a person, firm, or corporation claims exemption by the filing of a sworn statement, the person, firm, or corporation shall append to the statement of taxable property required to be filed in the next year or, if a statement of taxable property is not filed for the next year, a sworn statement on a form required by the assessing officer shall be filed showing a complete list of the property for which the exemption was claimed with a statement of the manner of shipment and of the point or points to which the products, materials, or goods were shipped from the public warehouse, dock, or port facility and the products, materials, or goods not shipped to a point or points outside this state shall be assessed upon the next succeeding assessment roll, or on a subsequent assessment roll by the assessing officer and taxed at the same rate of taxation as other taxable properties for the year or years for which the property was exempted, to the owner at the time of the omission. The records, accounts, and books of warehouses, docks, or port facilities, individual, partnerships, corporations, owners, or those in possession of tangible personal property shall be open to and available for inspection, examination, or auditing by assessing officers. A warehouse, dock, or port facility, individual, partnership, corporation, owner, or person in possession of tangible personal property, shall report within 90 days after shipment of products, materials, or goods in transit, for which exemption under this section was claimed or granted, the destination of shipments or parts of shipments and the cost value thereof to the assessing officer. In case of failure to comply with this requirement, the warehouse, dock, or port facility, individual, partnership, corporation, or owner is subject to a fine of $100.00 for each omission. A person, firm, individual, partnership, corporation, or owner failing to report products, materials, or goods located in a warehouse, dock, or port facility to the assessing officer is subject to a fine of $100.00 and a penalty of 50% of the final amount of taxes found to be assessable for the year on property not reported, the assessable taxes and penalty to be spread on a subsequent assessment roll in the same manner as general taxes on personal property. For the purpose of this subdivision, a public warehouse, dock, or port facility means a warehouse, dock, or port facility owned or operated by a person, firm, or corporation engaged in the business of storing products, materials, or goods for hire for profit who issues a schedule of rates for storage of the products, materials, or goods and who issues warehouse receipts pursuant to Act No. 303 of the Public Acts of 1909, as amended, being sections 443.50 to 443.55 of the Michigan Compiled Laws. A United States customs port of entry bonded warehouse means a warehouse within a classification designated by 19 C.F.R. 19.1 and which is located in a port of entry, as defined by 19 C.F.R. 101.1(m). A portion of a public warehouse, United States customs port of entry bonded warehouse, dock, or port facility leased to a tenant or a portion of any premises owned or leased or operated by a consignor or consignee or an affiliate or subsidiary of the consignor or consignee shall not be considered a public warehouse, dock, or port facility.

Bank or trust property.

(m) Personal property owned by a bank or trust company organized under the laws of this state, national banking association, or incorporated bank holding company as defined in section 2 of the bank holding company act of 1956, 12 U.S.C. 1841, that controls a bank, national banking association, trust company, or industrial bank subsidiary located in this state. However, buildings owned by a state or national bank, trust company, or incorporated bank holding company and situated upon lands of which the state or national bank, trust company, or incorporated bank holding company is not the owner of the fee are considered real property and are not exempt from taxation and personal property owned by a state or national bank, trust company, or incorporated bank holding company that is leased, loaned, or otherwise made available to and used by a private individual, association, or corporation in connection with a business conducted for profit is not exempt from taxation.

Farm products in public warehouse, dock, or port facility.

(n) Farm products processed or otherwise, the ultimate use of which is for human or animal consumption as food, except wine, beer, and other alcoholic beverages regularly placed in storage in a public warehouse, dock, or port facility, while in storage are considered in transit and only temporarily at rest, and are not subject to personal property taxation. The assessing officer is the determining authority as to what constitutes, is defined as, or classified as, farm products as used in this subdivision. The records, accounts, and books of warehouses, docks, or port facilities, individuals, partnerships, corporations, owners, or those in possession of farm products shall be open to and available for inspection, examination, or auditing by assessing officers.

Beet sugar, beet pulp, and beet molasses.

(o) Sugar in solid or liquid form, produced from sugar beets and dried beet pulp and beet molasses, when owned or held by processors.

Parent cooperative preschools.

(p) The personal property of a parent cooperative preschool. As used in this subdivision and section 7, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of social services under Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

Wood harvesting equipment; definition.

(q) All equipment used exclusively in wood harvesting, but not including portable or stationary sawmills or other equipment used in secondary processing operations. As used in this subdivision, "wood harvesting" means the clearing of land for forest management purposes, the planting of trees, and all forms of cutting or chipping of trees and the loading of them on trucks for removal from the harvest area.

Liquefied petroleum gas tanks; definition.

(r) Liquefied petroleum gas tanks located on residential or agricultural property and used to store liquefied petroleum gas for residential or agricultural property use. As used in this subdivision, "liquefied petroleum gas" means that term as defined in section 51 of Act No. 150 of the Public Acts of 1927, being section 207.151 of the Michigan Compiled Laws.

History: 1893, Act 206, Eff. June 12, 1893;—Am. 1895, Act 25, Imd. Eff. Mar. 20, 1895;—CL 1897, 3832;—Am. 1909, Act 309, Eff. Sept. 1, 1909;—CL 1915, 4003;—Am. 1921, Act 297, Eff. Aug. 18, 1921;—CL 1929, 3397;—Am. 1931, Act 94, Imd. Eff. May 11, 1931;—Am. 1934, 1st Ex. Sess., Act 10, Imd. Eff. Mar. 19, 1934;—Am. 1935, Act 83, Eff. Sept. 21, 1935;—Am. 1939, Act 232, Eff. Sept. 29, 1939;—CL 1948, 21.9;—Am. 1949, Act 261, Imd. Eff. June 7, 1949;—Am. 1952, Act 213, Imd. Eff. Apr. 30, 1952;—Am. 1953, Act 159, Eff. Oct. 2, 1953;—Am. 1956, Act 206, Eff. Aug. 11, 1956;—Am. 1958, Act 209, Eff. Sept. 13, 1958;—Am. 1964, Act 275, Eff. Aug. 28, 1964;—Am. 1966, Act 205, Imd. Eff. July 11, 1966;—Am. 1967, Act 259, Imd. Eff. July 19, 1967;—Am. 1968, Act 347, Eff. Nov. 15, 1968;—Am. 1969, Act 169, Imd. Eff. Aug. 5, 1969;—Am. 1971, Act 189, Imd. Eff. Dec. 20, 1971;—Am. 1974, Act 83, Imd. Eff. Apr. 17, 1974;—Am. 1976, Act 270, Imd. Eff. Oct. 6, 1976;—Am. 1978, Act 54, Imd. Eff. Mar. 10, 1978;—Am. 1984, Act 206, Imd. Eff. July 9, 1984;—Am. 1990, Act 317, Eff. Mar. 28, 1991.

Cited in other sections: Section 211.9 is cited in §206.263.

TAX ROLL.

211.43 Notice of taxes apportioned to township; bond; schedule for delivering tax collections; alternative schedule; accounting for and delivering tax collections; resolution; willfully neglecting or refusing to perform duty; penalty; interest earned; definitions.

Sec. 43. (1) The supervisor of each township, immediately upon authorization to raise money by taxation pursuant to an election held under section 36 or on or before the November 5 in each year, shall notify the township treasurer of the amount of the state, county, school, and public transportation authority taxes as apportioned to his or her township.

(2) The treasurer, immediately upon authorization to raise money by taxation pursuant to an election held under section 36 or on or before the third day immediately preceding the day the taxes to be collected become a lien, shall give to the county treasurer a bond running to the county in the actual amount of state, county, and school taxes, except school taxes collected through a city treasurer, with sufficient sureties to be approved by the supervisor of the township and the county treasurer, conditioned that he or she will pay over to the county treasurer as required by law all state and county taxes, pay over to the respective school treasurers all school taxes that he or she collects during each year of his or her term of office, and duly and faithfully perform all the other duties of the office of treasurer. If a corporate surety bond is provided, then the bond shall be approved only by the county treasurer. When the bond is furnished by a surety company authorized to transact business under the laws of this state, it is sufficient that the bond is equal to 40% of the amount of state, county, and school taxes. When the bond is furnished by a surety company, the premium and cost of the bond given to the county shall be paid by the county treasurer from the general fund of the county against which the premium and cost is made a charge. However, the county treasurer having paid the premium may bill each district school board afforded protection by the bond that portion of the premium charge as is allocated to the school taxes and the school district treasurers shall pay that allocated premium charge as determined by the county treasurer for the protection of school taxes from available school district funds. If the county treasurer and township supervisor determine that the bond of the township treasurer recorded with the township clerk and on file with the township supervisor is adequate and sufficient to safeguard the proper accounting of state, county, and school taxes as required by law, the township treasurer shall not be required to file with the county treasurer the bond provided for in this section. The county treasurer shall deliver to the supervisor on or before the day the taxes to be collected become a lien a signed statement of approval of the bond. Upon the receipt of the signed statement and on or before the day the taxes to be collected become a lien, the supervisor shall deliver to the township treasurer the tax roll of this township. The county treasurer shall file and safely keep the bond in his or her office and shall give to the township treasurer a receipt stating that the required bond was received, which receipt the township treasurer shall deliver to the supervisor on or before the day the taxes to be collected become a lien. After the delivery of the receipt and on or before the day the taxes to be collected become a lien, the supervisor shall deliver to the township treasurer the tax roll of the township.

(3) Except as provided in subsections (4) and (5), tax collections shall be delivered pursuant to the following schedule:

(a) Within 10 business days after the first and fifteenth day of each month, the township or city treasurer shall account for and deliver to the county treasurer the total amount of state and county tax collections on hand on the first and fifteenth day of each month; to the school district treasurers the total amount of school tax collections on hand on the first and fifteenth day of each month; and to the public transportation authorities the total amount of public transportation authority tax collections on hand the first and fifteenth day of each month. If the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the township or city treasurer shall also account for and deliver to the intermediate school district and the community college district the total respective amounts of school tax collections on hand the first and fifteenth day of each month. This subdivision shall not apply to the month of March.

(b) Within 10 business days after the last day of February, the township or city treasurer shall account for and deliver to the county treasurer at least 90% of the total amount of state and county tax collections on hand on the last day of February; to the school district treasurers at least 90% of the total amount of school tax collections on hand on the last day of February; and to the public transportation authorities at least 90% of the total amount of public transportation authority tax collections on hand on the last day of February. If the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the township or city treasurer shall also account for and deliver to the intermediate school district and community college district at least 90% of the total respective amounts of school tax collections on hand on the last day of February.

(c) A final adjustment and delivery of the total amount of tax collections on hand for the county, community college districts, intermediate school districts, school districts, and public transportation authorities shall be made not later than April 1 of each year.

(4) Instead of following the schedule prescribed in subsection (3), the township or city serving as the tax collecting unit and the local governmental unit for which the tax collections are made may enter into an agreement to establish an alternative schedule for delivering tax collections.

(5) A township which has a state equalized valuation of $15,000,000.00 or less shall account for and deliver to the county treasurer, the school district treasurers, and the public transportation authorities and, if the intermediate school district and community college district provide for direct payment pursuant to subsection (9), the intermediate school district treasurers and community college treasurers the taxes collected up to and including January 10, within 10 business days thereafter. However, a township treasurer subject to this subsection shall at no time have on hand collections of state, county, community college, intermediate school district when applicable pursuant to subsection (9), school district, and public transportation authority taxes in excess of 25% of the amount of the taxes apportioned to the township and, whenever collections on hand reach this percentage, the township treasurer shall immediately account for and turn over the total amount of state and county tax collections on hand to the county treasurer, the total respective amounts of school tax collections on hand to the respective treasurers, and the total respective amounts of public transportation authority tax collections on hand to the respective public transportation authorities. The township treasurer shall notify the secretary or superintendent of each community college district, intermediate school district, and school district applicable and each of the applicable public transportation authorities of the total amount of taxes paid to the respective treasurer or authority, which notification shall show the different funds for which the taxes were collected.

(6) Except as may be provided under section 1613 of Act No. 451 of the Public Acts of 1976, being section 380.1613 of the Michigan Compiled Laws, when a county treasurer is collecting the school district or intermediate school district levy, the county treasurer shall account for and deliver to the appropriate local governmental unit treasurer the tax collections received by the county treasurer within 10 business days after the county treasurer receives the funds.

(7) The county treasurer shall account for and deposit in the county library fund for the use of the county library board, county tax collections received pursuant to a tax levied under section 1 of Act No. 138 of the Public Acts of 1917, being section 397.301 of the Michigan Compiled Laws, within 10 business days after the county treasurer receives the funds.

(8) The county treasurer shall account for and deliver to the boards of each metropolitan transportation authority the county tax collections for transportation authority purposes received by the county treasurer within 10 business days after the county treasurer receives the funds.

(9) For taxes that become a lien in December 1984 or thereafter, an intermediate school district board or the board of trustees of a community college may provide that a local tax collecting treasurer shall account for and deliver tax collections directly to the respective intermediate school district or community college treasurer pursuant to the schedule contained in subsections (3), (4), and (5) for delivery of the respective taxes to the county treasurer. A resolution shall be adopted at least 60 days before the day taxes to be collected become a lien and shall specify the period for which the resolution is effective. Copies of the resolution shall be transmitted to each local tax collecting treasurer and county treasurer within the intermediate school district or community college district.

(10) A treasurer who willfully neglects or refuses to perform a duty required by subsections (3) to (8) is subject to the penalty prescribed in section 119(1).

(11) Interest earned by a city, township, or county on collections of taxes levied on or after November 5, 1985 before the tax collections are accounted for and delivered to the respective taxing units pursuant to this section shall also be accounted for and delivered to the respective taxing units on a pro rata basis. Interest earned by a city, township, or county on collections of taxes levied before November 5, 1985 before those collections were accounted for and delivered to the respective taxing units in compliance with the requirements of this section is not subject to claim and retroactive collection by those taxing units. However, interest earned on collections of taxes levied on or after November 5, 1985 and before December 1, 1987 are not subject to claim and retroactive collection unless a claim has been filed in a court of competent jurisdiction before March 1, 1988. This subsection does not apply to interest or penalties imposed by law or charter and does not nullify or prohibit any agreements made between a collecting unit and a taxing unit regarding the earned interest.

(12) As used in this section:

(a) "Metropolitan transportation authority" means an authority created under the metropolitan transportation authorities act of 1967, Act No. 204 of the Public Acts of 1967, being sections 124.401 to 124.425 of the Michigan Compiled Laws.

(b) "Public transportation authority" means an authority created under Act No. 55 of the Public Acts of 1963, being sections 124.351 to 124.359 of the Michigan Compiled Laws.

History: 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3866;—Am. 1903, Act 28, Eff. Sept. 17, 1903;—Am. 1911, Act 156, Eff. Aug. 1, 1911;—CL 1915, 4038;—CL 1929, 3432;—Am. 1933, Act 242, Eff. Oct. 17, 1933;—Am. 1934, 1st Ex. Sess., Act 26, Imd. Eff. Mar. 28, 1934;—Am. 1945, Act 269, Eff. Sept. 6, 1945;—CL 1948, 211.43;—Am. 1949, Act 267, Eff. Sept. 23, 1949;—Am. 1951, Act 103, Imd. Eff. May 31, 1951;—Am. 1977, Act 166, Imd. Eff. Nov. 16, 1977;—Am. 1979, Act 211, Eff. July 1, 1980;—Am. 1984, Act 77, Imd. Eff. Apr. 18, 1984;—Am. 1984, Act 146, Imd. Eff. June 25, 1984;—Am. 1988, Act 169, Imd. Eff. June 17, 1988.

Compiler's note: Section 3 of Act 211 of 1979 provides: "The legislature shall annually appropriate an amount sufficient to make disbursements to local units of government for the necessary cost of any increased level of activity or service, beyond that required of a local unit of government by existing law, which is required by this amendatory act, pursuant to Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws, which implements section 29 of article 9 of the state constitution of 1963."

Cited in other sections: Section 211.43 is cited in §§124.357, 124.468, 124.612, 259.627a, 380.625, 380.683, 380.1728, and 389.144.

PROPERTY TAX LIMITATION ACT (EXCERPT)

Act 62 of 1933

AN ACT to provide limits on the rate of taxation on property, and to provide for a division of the rate of taxation between counties, townships, municipal corporations, school districts and other local units and to earmark funds raised by increasing the total tax limitation; and to repeal all acts and parts of acts and charters and parts of charters of municipal corporations inconsistent with or contravening the provisions of this act.

History: 1933, Act 62, Imd. Eff. Apr. 25, 1933;—Am. 1947, Act 293, Eff. Oct. 11, 1947.

The People of the State of Michigan enact:

211.211 County tax allocation board; powers and duties in determining tax rates.

Sec. 11. (a) The board shall examine the budgets and statements of local units which are filed with it, and shall determine the tax rates, exclusive of debt service tax rates, which are required pursuant to its proposed budget. The board may request additional statements and examine financial records to verify the tax rate request of a local unit. For the purpose of determining its tax rate, a local unit shall submit a statement accounting for the amount of money contained in the budget stabilization fund. In submitting the budget to the board, the amount contained in the budget stabilization fund shall not be a factor by the board in determination of the tax rate, if that amount does not exceed the permitted level of funding for such a fund as provided by law.

(b) If the board finds that the total of all tax rates which are required to be levied on property located within the area of a local unit does not exceed the net limitation tax rate, the board shall approve the tax rates as maximum tax rates, except such tax rates as may be required to be determined under subsections (c) to (h).

(c) If the board finds that the total of all tax rates which are required to be levied on property located within the area of a local unit exceeds the net limitation tax rate, the board shall proceed according to subsections (d), (e), and (f).

(d) The board shall approve minimum tax rates as follows: For the county if other than a charter county, 3 mills; for school districts, 4 mills; for community college districts organized after April 15, 1957, 1/4 of 1 mill; for intermediate school districts, 1/10 of 1 mill; for townships other than charter townships, 1 mill. If the community college district votes to increase the total tax limitation as provided in section 6 of article 9 of the state constitution of 1963, the board, during the period the increase is in effect, shall not allocate the 1/4 of 1 mill minimum tax rate to the community college district, but the community college district shall raise all of its tax revenues from the amount of increase so voted. A local unit shall not be allowed a tax rate in excess of what is required pursuant to its proposed budget. Of the millage allocated to a first-class school district, .64 mills shall be collected and paid by the school district to the public library commission existing in the district for services of an educational nature rendered by the library to the residents of the school district.

(e) The board shall divide the balance of the net limitation tax rate between all local units after due consideration of the needs of the several local units, the importance to the public of functions of local units which may have to be curtailed, the need of local units for construction or repair of public works, the proposed or accomplished transfer of functions from 1 local unit to others, and other facts or matters concerning the operations of local units which the board may consider relevant. A local unit shall not be allowed a tax rate in excess of what is required pursuant to its proposed budget. The board shall approve a maximum limitation tax rate to be levied from the tax rate fixed by section 6 of article 9 of the state constitution of 1963 without approval of the voters for each local unit consisting of the minimum tax rate, if any, provided in subsection (d), added to the tax rate determined under this subsection.

(f) The board shall approve a maximum tax rate for each local unit which votes to increase the total tax rate limitation as provided in the last sentence of the first paragraph of section 6 of article 9 of the state constitution of 1963, and as provided for in this act. The maximum tax rate for each local unit, with other maximum tax rates which may be levied within the area of the local unit, shall not exceed the limitation voted. In approving a maximum limitation tax rate under subsection (e) for the various local units, the board shall not take into consideration any increase of the tax rate limitation voted by a local unit.

(g) The board shall not approve a tax rate for a local unit which does not submit a budget or statements as required.

(h) The approval by the board of a maximum tax rate for a local unit, which will necessitate a reduction in the total proposed expenditures as listed in the budget of the local unit, shall not be construed as a reduction or elimination of any specific items in the list of proposed expenditures, and the board may not reduce or eliminate those specific items. A local unit, in the budget of which a reduction in the total proposed expenditure is necessitated by the action of the board, or of the state tax commission in case of appeal, may revise its budget and amend and alter its tax levy to the extent made necessary by that action. Budgets heretofore prepared to be met from taxes levied pursuant to this act may likewise be revised.

History: 1933, Act 62, Imd. Eff. Apr. 25, 1933;—Am. 1934, 1st Ex. Sess., Act 30, Imd. Eff. Mar. 28, 1934;—Am. 1937, Act 40, Imd. Eff. May 13, 1937;—Am. 1945, Act 158, Imd. Eff. May 16, 1945;—Am. 1947, Act 293, Eff. Oct. 11, 1947;—CL 1948, 211.211;—Am. 1952, Act 87, Eff. Sept. 18, 1952;—Am. 1957, Act 155, Eff. Sept. 27, 1957;—Am. 1959, Act 88, Imd. Eff. June 29, 1959;—Am. 1964, Act 278, Eff. Aug. 28, 1964;—Am. 1971, Act 139, Imd. Eff. Sept. 29, 1971;—Am. 1975, Act 102, Imd. Eff. June 3, 1975;—Am. 1978, Act 359, Imd. Eff. July 22, 1978;—Am. 1980, Act 24, Imd. Eff. Mar. 7, 1980.

Cited in other sections: Section 211.211 is cited in §§380.753 and 380.1211.

MICHIGAN VEHICLE CODE (EXCERPTS)

Act 300 of 1949

AN ACT to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1957, Act 281, Eff. Sept. 27, 1957;—Am. 1978, Act 507, Eff. July 1, 1979;—Am. 1979, Act 66, Eff. Aug. 1, 1979;—Am. 1980, Act 137, Imd. Eff. May 29, 1980;—Am. 1980, Act 518, Eff. Mar. 31, 1981;—Am. 1982, Act 310, Eff. Mar. 30, 1983;—Am. 1987, Act 154, Eff. Dec. 1, 1987;—Am. 1988, Act 255, Eff. Oct. 1, 1989;—Am. 1991, Act 98, Imd. Eff. Aug. 9, 1991.

Compiler's note: In OAG 6480, issued November 23, 1987, the Attorney General stated: "It is my opinion, therefore, that 1987 PA 154, which fixes maximum speed limit on certain state highways, becomes effective November 29, 1987."

The People of the State of Michigan enact:

CHAPTER VIII.

PENALTIES

257.907 Civil infraction not crime; payment of civil fine and costs; program of treatment, education, or rehabilitation; sanctions; schedule of civil fines and costs; recommended range of civil fines and costs; certification of repair of defective equipment; collection of civil fine or costs; noncompliance with order of judgment.

Sec. 907. (1) A violation of this act, or a local ordinance substantially corresponding to a provision of this act, which is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge, district court referee, or district court magistrate may order the person to pay a civil fine of not more than $100.00 and costs as provided in subsection (4). However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than $50.00 nor more than $100.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed $10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be $25.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) If a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than $250.00.

(4) If a civil fine is ordered to be paid under subsection (2) or (3), the judge, district court referee, or district court magistrate shall summarily tax and determine the costs of the action, which shall not be limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Except in a civil infraction for a parking violation, costs of not less than $5.00 shall be ordered. Costs shall not be ordered in excess of $100.00. Except as otherwise provided by law, costs shall be payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4), the judge, district court referee, or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court referee or district court magistrate shall impose the sanctions permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations which are

designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation shall not be binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges, district court referees, and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine and costs, upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.

(10) If a person has received a civil infraction citation under section 328 for failure to produce evidence that a motor vehicle is insured under chapter 31 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, as amended, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws, the court shall waive a civil fine and costs upon receipt of certification by a law enforcement agency that the defendant, before the appearance date on the citation, has produced evidence that the vehicle was insured on the date of issuance of the citation as required.

(11) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or an installment of the fine or costs may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being sections 600.4001 to 600.4065 of the Michigan Compiled Laws, or under chapter 60 of Act No. 236 of the Public Acts of 1961, as amended, being sections 600.6001 to 600.6098 of the Michigan Compiled Laws.

(12) If a person fails to comply with an order or judgment issued pursuant to this section, within the time prescribed by the court, the driver's license of that person shall be suspended pursuant to section 321a until full compliance with that order or judgment occurs. In addition to this suspension, the court may also proceed under section 908.

(13) The court shall waive any civil fine or cost against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(14) In addition to any fines and costs ordered to be paid under this section, the judge, district court referee, or district court magistrate shall levy an assessment of $5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are $10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment levied to the state treasury to be deposited into the Michigan justice training fund. An assessment levied under this subsection shall not be considered a civil fine for purposes of section 909.

(15) If a person has received a citation for a violation of section 223, the court shall waive any fine and costs, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

History: Add. 1978, Act 510, Eff. Aug. 1, 1979;—Am. 1980, Act 459, Imd. Eff. Jan. 15, 1981;—Am. 1981, Act 117, Eff. Mar. 31, 1982;—Am. 1982, Act 51, Eff. Mar. 30, 1983;—Am. 1982, Act 301, Imd. Eff. Oct. 12, 1982;—Am. 1984, Act 30, Eff. Apr. 28, 1984;—Am. 1984, Act 364, Eff. Mar. 29, 1985;—Am. 1985, Act 1, Eff. July 1, 1985;—Am. 1988, Act 346, Eff. Jan. 1, 1989;—Am. 1989, Act 89, Eff. Sept. 19, 1989.

Cited in other sections: Section 257.907 is cited in §§18.423, 500.3303, 500.3320, 600.8375, and 600.8512.

257.909 Application of civil fines to public and county law libraries.

Sec. 909. (1) A civil fine which is ordered under section 907 for a violation of this act or other state statute shall be exclusively applied to the support of public libraries and county law libraries in the same manner as is provided by law for penal fines assessed and collected for violation of a penal law of the state.

(2) Subsection (1) is intended to maintain a source of revenue for public libraries which previously received penal fines for misdemeanor violations of this act which are now civil infractions.

History: Add. 1978, Act 510, Eff. Aug. 1, 1979.

DOG LAW OF 1919 (EXCERPT)

Act 339 of 1919

AN ACT relating to dogs and the protection of live stock and poultry from damage by dogs; providing for the licensing of dogs; regulating the keeping of dogs, and authorizing their destruction in certain cases; providing for the determination and payment of damages done by dogs to live stock and poultry; imposing powers and duties on certain state, county, city and township officers and employes, and to repeal Act No. 347 of the Public Acts of 1917, and providing penalties for the violation of this act.

History: 1919, Act 339, Eff. Aug. 14, 1919.

The People of the State of Michigan enact:

287.286 Penalties; disposition of fines.

Sec. 26. Any person or police officer, violating or failing or refusing to comply with any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall pay a fine not less than $10.00 nor more than $100.00, or shall be imprisoned in the county jail for not exceeding 3 months, or both such fine and imprisonment. Any person presenting a false claim, knowing it to be false, or receiving any money on such false claim, shall be guilty of a misdemeanor and upon conviction, shall pay a fine of not less than $10.00 nor more than $100.00, or shall be imprisoned in the county jail for not exceeding 3 months, or both such fine and imprisonment. All fines collected under the provisions of this act shall be paid to the treasurer of the county to be credited to the library fund of the county.

History: 1919, Act 339, Eff. Aug. 14, 1919;—CL 1929, 5270;—CL 1948, 287.286;—Am. 1969, Act 195, Eff. Mar. 20, 1970.

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PUBLIC HEALTH CODE (EXCERPTS)

Act 368 of 1978

AN ACT to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for penalties and remedies; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 198, Eff. Mar. 31, 1986;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1988, Act 139, Imd. Eff. June 3, 1988.

The People of the State of Michigan enact:

ARTICLE 12. ENVIRONMENTAL HEALTH

PART 126. SMOKING IN PUBLIC PLACES

333.12601 Definitions.

Sec. 12601. (1) As used in this part:

(a) "Child caring institution" and "child care center" mean those terms as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

(b) "County medical care facility" means that term as defined in section 20104.

(c) "Educational facility" means a building owned, leased, or under the control of a public or private school system, college, or university.

(d) "Food service establishment" means a food service establishment as defined in section 12901.

(e) "Health facility" means a health facility or agency licensed under article 17, except a home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(f) "Home for the aged" means that term as defined in section 20106.

(g) "Hospice" means that term as defined in section 20106.

(h) "Hospital long-term care unit" means that term as defined in section 20106.

(i) "Licensed premises" means any portion of a building, structure, room, or enclosure in which alcoholic liquor may be sold for consumption on the premises pursuant to a license issued by the Michigan liquor control commission.

(j) "Meeting" means a meeting as defined in section 2 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.262 of the Michigan Compiled Laws.

(k) "Nursing home" means that term as defined in section 20109.

(*l*) "Public body" means a public body as defined in section 2 of the open meetings act, Act No. 267 of the Public Acts of 1976.

(m) "Public place", except as otherwise provided in subsection (2), means both of the following:

(*i*) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a place of work for public employees or a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance.

(*ii*) An enclosed, indoor area which is not owned or operated by a state or local governmental agency, is used by the general public, and is 1 of the following:

(A) An educational facility.

(B) A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(C) An auditorium.

(D) An arena.

(E) A theater.

(F) A museum.

(G) A concert hall.

(H) Any other facility during the period of its use for a performance or exhibit of the arts.

(n) "Smoking" or "smoke" means the carrying by a person of a lighted cigar, cigarette, pipe, or other lighted smoking device.

(2) Public place does not include a private, enclosed room or office occupied exclusively by a smoker, even if the room or enclosed office may be visited by a nonsmoker.

(3) In addition, article 1 contains general definitions and principles of construction applicable to all articles of this code.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

333.12603 Smoking in public place or at meeting of public body prohibited; exception; applicability of section.

Sec. 12603. (1) Except as otherwise provided in this part or in rules promulgated under this part, an individual shall not smoke in a public place or at a meeting of a public body, except in a designated smoking area.

(2) This section shall not apply to a room, hall, or building used for a private function if the seating arrangements are under the control of the sponsor of the function and not under the control of the state or local governmental agency or the person who owns or operates the room, hall, or building.

(3) This section shall not apply to a food service establishment or to licensed premises.

(4) This section shall not apply to a private educational facility after regularly scheduled school hours.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989.

333.12605 Designation of smoking area; minimizing toxic effect of smoke; public place consisting of single room; written policy for separation of smokers and nonsmokers.

Sec. 12605. (1) A smoking area may be designated by the state or local governmental agency or the person who owns or operates a public place, except in a public place in which smoking is prohibited by law. If a smoking area is designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in both smoking and adjacent nonsmoking areas.

(2) In the case of a public place consisting of a single room, the state or local governmental agency or the person who owns or operates the single room shall be in compliance with this part if 1/2 of the room is reserved and posted as a no smoking area.

(3) If smoking is permitted in a public place, the state or local governmental agency or the person who owns or operates the public place shall develop a written policy for the separation of smokers and nonsmokers which provides, at a minimum, for all of the following:

(a) Nonsmokers to be located closest to the source of fresh air.

(b) Special consideration to be given to individuals with a hypersensitivity to tobacco smoke.

(c) A procedure to receive, investigate, and take action on complaints.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989.

333.12607 Prevention of smoking; duties of state or local governmental agency.

Sec. 12607. The state or local governmental agency or the person who owns or operates a public place shall, at a minimum, do all of the following in order to prevent smoking:

(a) Post signs which state that smoking in that public place is prohibited, except in designated smoking areas, pursuant to this part.

(b) Arrange seating to provide, as nearly as practicable, a smoke-free area.

(c) Implement and enforce the policy for the separation of smokers and nonsmokers developed under section 12605(3).

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989.

333.12609 Rules.

Sec. 12609. The department may promulgate rules to implement this part.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987.

333.12611 Violation; compliance; civil fine.

Sec. 12611. A person who violates section 12603(1), 12604, or 12604a or a person or state or local governmental agency, that owns or operates a public place and that violates section 12605 or 12607 shall be directed to comply with this part and shall be subject to a civil fine of not more than $100.00 for a first violation and not more than $500.00 for a second or subsequent violation.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

333.12613 Enforcement; civil fine; injunctive relief; remedies independent and cumulative.

Sec. 12613. (1) Subject to subsection (2), the department shall enforce this part and rules promulgated under this part pursuant to sections 2262(2) and 2263. In addition to the civil fine authorized under section 12611, the department may enforce this part and the rules promulgated under this part through an action commenced pursuant to section 2255 or any other appropriate action authorized by law.

(2) Pursuant to section 2235, the department may authorize a local health department to enforce this part and the rules promulgated under this part. A local health department authorized to enforce this part and the rules promulgated under this part shall enforce this part and the rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the civil fine authorized under section 12611, a local health department may enforce this part and the rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

(3) In addition to any other enforcement action authorized by law, a person alleging a violation of this part may bring a civil action for appropriate injunctive relief, if the person has used the public place, child caring institution, child care center, health facility, or private practice office of an individual who is licensed under article 15 within 60 days after the civil action is filed.

(4) The remedies under this part are independent and cumulative. The use of 1 remedy by a person shall not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

333.12615 Part cumulative.

Sec. 12615. This part is in addition to, and does not supersede the requirements for a policy regulating the smoking of tobacco on the premises of a nursing home set forth in section 21733, or the requirements for a food service establishment set forth in section 12905.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989.

333.12617 Effective date.

Sec. 12617. This part shall take effect January 1, 1987.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987.

THE SCHOOL CODE OF 1976 (EXCERPTS)

Act 451 of 1976

AN ACT to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for the regulation of school teachers and school administrators; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1988, Act 339, Imd. Eff. Oct. 18, 1988;—Am. 1990, Act 161, Imd. Eff. July 2, 1990.

The People of the State of Michigan enact:

ARTICLE 1

PART 3

SCHOOL DISTRICTS OF THE FOURTH CLASS

380.143 Acquisition of sites or buildings; payment for facilities; sale, exchange, or lease of property; crediting proceeds from sale; dedication or sale of land for highway purposes; taxation of leased real property.

Sec. 143. (1) The board may:

(a) Locate, acquire, purchase, or lease in the name of the school district a site or sites within or without the district for schools, libraries, administration buildings, agricultural farms, athletic fields, and playgrounds.

(b) Purchase, lease, acquire, build, or equip buildings for a school, library, or administration building, or for use in connection with agricultural farms, athletic fields, or playgrounds.

(c) Pay for facilities acquired under subdivisions (a) and (b) from funds of the school district provided for that purpose.

(d) Sell, exchange, or lease real or personal property of the school district which is no longer required for school purposes and give proper deeds or other instruments passing title to the property. Proceeds from the sale of real property shall be credited to accounts of the school district as provided in section 1262.

(e) Dedicate or sell and convey land for highway purposes to the state or an agency or instrumentality of the state, including municipalities and boards of county road commissioners, when the action does not divide the school property into 2 or more separate parcels.

(2) Real property owned by a school district which is leased to a private individual, association, or corporation shall not be exempt from property taxation during the term of the lease.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977.

PART 4

SCHOOL DISTRICTS OF THE THIRD CLASS

380.260 Library or museum; board of library commissioners or board of museum commissioners.

Sec. 260. (1) The board may establish and maintain a library or museum, or both, and provide for its care and management. The library or museum may be separately operated for the public schools of the school district. For this purpose, the board may appoint librarians and hire other employees for the library or museum and fix their salaries, may purchase necessary books and apparatus, and may include in the general budget of the district sums for building, maintenance, and support of a library and museum.

(2) The board may appoint a board of library commissioners or a board of museum commissioners of not more than 7 persons. The boards may be separate boards. Members of the board of education shall not be eligible to membership on the board of library commissioners or board of museum commissioners. An appointed board shall have control and direction of the public library and museum subject to the approval of the board of education. The appointed board shall keep correct records of its proceedings. Money for a school district library shall be paid to the treasurer of the board of education and shall be kept by the treasurer and paid out on the order of the board of library commissioners when approved by the secretary of the board of education.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

PART 5

SCHOOL DISTRICTS OF THE SECOND CLASS

380.351 Funds for maintenance of school district or public libraries.

Sec. 351. The board shall receive the funds designated by law to the maintenance of the school district or public libraries and shall use those funds for those purposes. The board may delegate the expenditure of library funds to an executive body constituted by law for the management of the public or school libraries within the city.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977.

PART 7

INTERMEDIATE SCHOOL DISTRICTS

380.671 Criteria for approval of regional educational media centers; operation of educational media centers; "educational media center" defined; purchase, sale, lease, or loan of equipment; disposition of used or surplus equipment.

Sec. 671. (1) The state board shall establish criteria based on state and national guidelines for approving regional educational media centers for initial and continued funding. Among the criteria shall be:

(a) The establishment of a minimum size for the service area based on pupil enrollment.

(b) Provision for 2 or more intermediate school districts or parts of intermediate school districts to combine to operate an instructional materials center. The combining intermediate school districts may contract with 1 intermediate school district to administer the center or a cooperative board may be organized.

(c) The designation of a service area which will provide reasonable and efficient lines of communication between the center and the farthest local school district. In sparsely settled areas of the state where a minimum enrollment requirement would necessitate districts of unwieldly geographical size, satellite or subcenters may be established.

(d) Provision for the staffing and administration of a center by qualified personnel having a substantial background of training and experience in the selection, use, evaluation, and application of media materials to education.

(2) An intermediate school board acting singly, or in cooperation with other intermediate school districts, may operate educational media centers to serve public and nonpublic schools in its respective area.

(3) As used in this section, "educational media center" means a program approved by the state board which provides basic educational services to local school districts which may include:

(a) A materials lending library containing 16mm and 8mm motion pictures or improvements thereof with provision for processing and servicing, 35mm slides or improvements thereof, filmstrips, remedial and enrichment programmed instructional materials, disc recordings, and other items.

(b) Duplication service to reproduce transparencies, slides, filmstrips, and charts or improvements thereof.

(c) Magnetic type duplicating service for audio and video tape.

(d) Delivery and dissemination system for materials and services.

(e) Professional leadership training services to local school districts for coordination and assistance with proper utilization of materials and services.

(f) Acquisition and use of materials that will be coordinated with the curriculum of local school districts.

(g) Technical and maintenance service for cooperating districts.

(h) Professional, reference, and informational library materials and services.

(i) Central purchasing of equipment related to media center activities and use in the local school.

(j) Graphics staff to produce transparency masters and charts and to render other production services to teachers.

(4) An educational media center shall not purchase, sell, grant a lease, or loan for more than 30 days, directly or indirectly, equipment for use by other than a public school, nonpublic school, local school district, intermediate school district, community college district, or publicly funded library or library cooperative. This shall not prohibit the disposition of used or surplus equipment by publicly advertised sale.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1980, Act 157, Imd. Eff. June 12, 1980.

Compiler's note: In subsection (1)(c), "unwieldly geographical size" evidently should read "unwieldy geographical size."

Cited in other sections: Section 380.671 is cited in §388.1683.

Administrative rules: R 380.1 et seq. of the Michigan Administrative Code.

ARTICLE 2

PART 16

BOARDS OF EDUCATION; POWERS AND DUTIES GENERALLY

380.1215 Accounting for moneys; fund designations.

Sec. 1215. (1) Operating taxes shall be accounted for under the title of "general fund". The state board may establish other fund designations to clarify further the expenditure classifications for which general fund moneys may be used.

(2) Library money shall be accounted for under the title of "library fund".

(3) Building and site money shall be accounted for under the title of "building and site fund".

(4) Taxes collected for retiring bonded indebtedness shall be accounted for as required by chapter 7 of Act No. 202 of the Public Acts of 1943, as amended, being sections 137.1 to 137.3 of the Michigan Compiled Laws.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

380.1264 Library or museum; care and management; appointment and salaries of employees; books and apparatus; budget.

Sec. 1264. The board of a school district shall provide for the care and management of a library or museum established in the school district, may appoint librarians and other employees for the library or museum and fix their salaries, may purchase books and apparatus, and may include in the general budget sums necessary for buildings and the maintenance and support of the library or museum.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

PART 17

BONDS AND NOTES

380.1351 Borrowing money and issuing bonds; purposes; limitations; bonds or notes as full faith and credit tax limited obligations; bonds for textbooks.

Sec. 1351. (1) A school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; participating in the administrative costs of an urban renewal program through which the school district desires to acquire a site or addition to a site for school purposes; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the purposes set forth in this subsection. In addition, until December 31, 1991 a school district may borrow money and issue bonds to defray all or part of the cost of purchasing textbooks.

(2) Except as otherwise provided in this subsection, a school district shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the district, exceeds 5% of the state equalized valuation of the taxable property within the district, unless the proposition of borrowing the money or issuing the bonds is submitted to a vote of the school electors of the district at an annual or special election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a.

(3) A school district shall not issue bonds under this part for an amount greater than 15% of the total assessed valuation of the district, except as provided in section 1356. The bonded indebtedness of a district shall not extend beyond a period of 30 years. Refunding bonds or the refunding part of a bond issue shall not be considered to be within the 15% limitation but shall be considered to be authorized in addition to the 15% limitation. A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the 15% limitation. Bonds issued pursuant to this section are subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, except that bonds issued for a purpose described in section 1274a may be sold at a public or publicly negotiated sale at the time or times, at the price or prices, and at a discount as determined by the board of the school district.

(4) Bonds or notes issued by a school district or intermediate school district pursuant to sections 144, 251, 335, 442, or 629 for the purposes authorized by this section and section 1274a shall be full faith and credit tax limited obligations of the district pledging the general funds, voted and allocated tax levies, or any other money available for such a purpose and shall

not allow or provide for the levy of additional millage for payment of the bond or note without a vote of the qualified electorate of the district.

(5) If a bond proposal for bonds to be used in whole or part to defray all or part of the cost of purchasing textbooks has been approved by a majority of the school electors voting on the question before the effective date of the amendatory act that added this subsection, and the bonds otherwise meet the requirements of this section, the issuance of those bonds for a period not to exceed 5 years is ratified and confirmed and the bonds are considered to be issued under this section.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1977, Act 43, Imd. Eff. June 29, 1977;—Am. 1985, Act 22, Imd. Eff. May 20, 1985;—Am. 1990, Act 352, Imd. Eff. Dec. 26, 1990.

PART 20

LIBRARIES

380.1451 Public library; establishment; tax for support and maintenance.

Sec. 1451. (1) A school district other than a primary school district, by a majority vote of the school electors at an annual or special election, may establish a public library.

(2) The school electors of a school district in which a library is established may vote a district tax for the support of the public library at an annual or special election of the district. The board of the school district may vote a tax for the maintenance and support of the public library.

(3) A tax authorized or voted under this part shall be levied and collected in the same manner as other school district taxes are levied and collected.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

380.1452 Board in charge of library; care of library; persons entitled to use and privileges of library; donation or sale of library books.

Sec. 1452. (1) The board of a school district in which a library is established under this part shall have charge of the library and shall provide the necessary conveniences for the proper care of the library.

(2) Persons residing within the boundaries of a school district in which a library is established shall be entitled to the privileges of the library.

(3) The board of a school district in which a library is established under this part may enter into a contract with a community or body of people outside of the territorial jurisdiction of the board for the use and privileges of the library.

(4) The board of a school district may donate or sell library books belonging to the district.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977.

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)

Act 94 of 1979

AN ACT to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991.

The People of the State of Michigan enact:

ARTICLE 2

388.1621 Allocation to district.

Sec. 21. (1) Except as otherwise provided in this act, from the appropriation in section 11, there is allocated to each district an amount per membership pupil sufficient to guarantee the district for 1992-93 a combined state-local yield or gross allowance of $268.00 plus $96.27 for each mill of operating tax levied. For purposes of this section, only taxes levied for purposes included in the operation cost of the district as prescribed in section 7 shall be considered operating tax. The net allocation for each district shall be an amount per membership pupil computed by subtracting, from the gross allowance guaranteed the district under this subsection, including the additions applicable to the district under this subsection, the product of the district's state equalized valuation behind each membership pupil and the millage utilized for computing the gross allowance. The amount allocated to a district under this subsection shall also include all of the following additions that are applicable to the district:

GRADUATION AND CLASS INCENTIVES

An additional $30.00 per pupil in gross allowance is allocated to any district that satisfies the requirements specified in subdivisions (a) and (b).

(a) The district requires pupils to have completed as a condition for graduation in 1992-93 all of the following:

(*i*) A total of 10 years of English or communication skills, mathematics, science, and social science, with not less than 2 years of each subject specified in this subparagraph.

(*ii*) One year of health, or consumer home economics essential health and living skills, or physical education, or any combination thereof.

(*iii*) One year of fine or performing arts, foreign language, or of vocational education or practical arts, or any combination thereof.

(*iv*) One semester of computer education or the equivalent, which may be demonstrated by the passage of an appropriate computer competency test, as approved by the department.

If a class taught in a district reasonably falls within more than 1 of the subject categories listed in subparagraphs (i) to (*iv*), the district may determine which subject category the class falls within as long as teacher certification requirements are not violated.

(b) The district provides for its pupils in grades 9 through 12 at least six classes, each consisting of at least 50 minutes of classroom instruction, or a total of not less than 300 minutes of classroom instruction. In either case, at least 30% of the pupils in grades 9 through 12 shall be enrolled in the last period, with the last period being a class of an academic nature that normally would be credited toward high school graduation. This subdivision does not apply to pupils in grade 9 who do not attend classes in the same building as pupils in grades 10 through 12.

The department may waive the requirements of subdivision (b) for a district with unusual circumstances that is making a good faith effort to comply with this subdivision and has a plan in place to meet the requirements during the following year.

In order to be eligible for the additional $30.00 per pupil permitted under this subsection, unless it has received a waiver under subdivision (b), a district shall submit to the department, not later than October 31, 1992, a board-adopted resolution indicating compliance with the requirements specified in subdivisions (a) and (b).

A primary or fourth class school district that sends its resident high school pupils to 1 or more districts shall receive the additional $30.00 per pupil permitted under this subsection if at least 90% of its resident high school pupils attend schools in districts that satisfy the requirements of subdivisions (a) and (b). In this case, the primary or fourth class district shall submit to the department not later than October 31, 1992, a resolution adopted by its board indicating that it complies with this requirement.

CLASS SIZE INCENTIVES

In 1992-93, an additional $14.00 per pupil in gross allowance is allocated to any district that satisfies the requirements specified in either of the following subdivisions:

(a) The district attains an average class size in each building of not more than 25 pupils for grades K, 1, 2, and 3, taken collectively.

(b) The district reduces its average class size in each building in grades K, 1, 2, and 3, taken collectively, by at least 1% from the average class size in the immediately preceding school year.

If 1 or more buildings in a district do not meet the average class size incentive requirement of not more than 25 pupils for grades K, 1, 2, and 3, taken collectively, and the district has not received a waiver from the department for the requirements of subdivision (a) or (b), the district's allocation shall be reduced by $14.00 multiplied by the number of K-6 pupils in each of those buildings.

For purposes of computing average class size, only the following staff shall be counted:

(*i*) General subject classroom teachers, such as teachers of reading, language arts, mathematics, science or social studies, and kindergarten teachers.

(*ii*) Special subject teachers, such as teachers of art, music, or physical education, to the extent that they provide instruction to eligible pupils.

(*iii*) Special needs teachers, in areas such as compensatory education, bilingual education, migrant education, or gifted and talented education, to the extent that they provide instruction to eligible pupils. The following staff shall not be counted:

(A) Special education teachers.

(B) Adult education teachers.

(C) Professional or nonprofessional support staff.

(D) Teacher aides, paraprofessionals, or volunteers.

(E) Administrators or supervisors.

The department may waive the requirements of subdivision (a) or (b) for a district with unusual circumstances that is making a good faith effort to comply with either of these subdivisions and has a plan in place to meet the requirements for the following year. However, the department shall not grant waivers to a district in more than 2 consecutive school years.

In order to be eligible for the additional $14.00 per pupil permitted under this subsection, unless it has received a waiver for subdivision (a) or (b), a district shall submit to the department not later than October 31, 1992, a resolution adopted by its board indicating that the district complies with the requirements of either subdivision (a) or (b). In addition, the district shall report its average class size in grades K, 1, 2, and 3 in each building that houses those grades on the pupil membership count day and on the subsequent membership reporting day specified in section 3(2).

LOCAL DISTRICT FOREIGN LANGUAGE INCENTIVES

In 1992-93, an additional $5.00 per pupil in gross allowance is allocated for the establishment or expansion of foreign language study programs to each district that meets the following requirements. The district shall submit to the department not later than October 31, 1992 a board-adopted resolution indicating that the district will establish or expand the study of foreign language by pupils in the elementary grades or middle or junior high school grades, or both. To be eligible for funding under this incentive, the district shall offer the foreign language program or programs during the regular school day or immediately preceding or following the regular school day. The resolution required under this incentive shall be accompanied by a plan that describes all of the following:

(a) How the district will achieve foreign language outcomes defined in the core curriculum.

(b) How the pupil selection process will ensure pupils in the elementary grades or middle or junior high school grades, or both, fair access to the instructional study of foreign language.

(c) How the district will ensure substantial continuity or uninterrupted sequence of foreign language studies from the elementary grade levels or middle or junior high school grade levels, or both, through the high school grade levels.

(d) How the district will account for the incentive allocation to ensure that at least $5.00 per pupil is used to establish or expand the study of foreign language by pupils in the elementary or middle or junior high school grades, or both.

(e) Whether the foreign language program will be offered during the regular school day or immediately preceding or following the regular school day.

LOCAL DISTRICT ADMINISTRATIVE EFFICIENCY INCENTIVES

In 1993-94, an additional $5.00 per pupil in gross allowance shall be allocated to each district that has per pupil administrative expenditures in the 1992-93 school year that are less than 105% of the average per pupil administrative expenditure for all districts, using the administrative expenditures and pupil counts reported by districts for the 1992-93 school year. Administrative expenditures consist of salary and benefits for the personnel associated with the K-12 portion of the following form B function account codes, as determined by the department, except for federally funded or categorical funded portions of the salary and benefits:

(a) Function account code 232 - executive administration.

(b) Function account code 252 - fiscal services.

(c) Function account code 283 - staff services.

QUALITY INCENTIVES

In 1992-93, an additional $25.00 per pupil in gross allowance is allocated to a district that satisfies the requirements of subdivisions (a) through (e), as follows:

(a) The district makes available to the state board and the department, through the intermediate district, and to the public an annual educational report and ensures that each school in the district distributes to the public an annual education report as described in section 1204a of the school code of 1976, being section 380.1204a of the Michigan Compiled Laws. To be eligible for quality incentive funds under this subsection, a district shall submit to the department not later than October 31, 1992 a board-adopted resolution indicating the board's intent to comply with section 1204a of the school code of 1976, and shall submit to the department not later than July 31, 1991 for quality incentive funding for the 1990-91 fiscal year and not later than September 1 for funding under this subsection for a subsequent fiscal year a copy of the annual educational report prepared and made available pursuant to section 1204a of the school code of 1976. In addition, the district shall make available to the public the annual educational report not later than October 15. An applicant district that fails to comply with the requirements of this subdivision shall have an appropriate state aid adjustment in the next state fiscal year.

(b) The district adopts and implements a 3- to 5-year school improvement plan and continuing school improvement process for each school within the district as described in section 1277 of the school code of 1976, being section 380.1277 of the Michigan Compiled Laws. To be eligible for quality incentive funds under this subsection, a district shall have submitted to the department not later than October 31 of the state fiscal year a board-adopted resolution indicating that the district has developed a 3- to 5-year school improvement plan and continuing school improvement process in compliance with section 1277 of the school code of 1976, and shall submit not later than September 1 of each fiscal year a copy of the 3- to 5-year school improvement plan and continuing school improvement process for each school within the district. An applicant district that fails to comply with the September 1 requirement of this subdivision shall have an appropriate state aid adjustment in the next state fiscal year.

(c) The district makes available in 1991-92 to all pupils attending public school in the district a core curriculum as described in section 1278 of the school code of 1976, being section 380.1278 of the Michigan Compiled Laws, in at least 1 of the curricular areas specified in the recommended model core curriculum approved by the state board. In 1992-93, the district shall make available to all pupils attending public school in the district a core curriculum in at least 2 of those curricular areas. In each succeeding state fiscal year until a core curriculum is made available to its pupils in all of the curricular areas, the district shall make available to its pupils a core curriculum in at least 1 curricular area in addition to the curricular areas for which a core curriculum was available in the immediately preceding state fiscal year. For each state fiscal year, the district also shall specify to the department by September 1 before the beginning of the state fiscal year the curricular area or areas that are to be made available and the specific outcomes to be achieved in each curricular area for elementary, middle, and secondary levels for all pupils. In addition, the district shall submit to the department not later than October 31 a board-adopted resolution indicating the district's compliance with the requirements of this subdivision.

(d) The district submits to the department not later than October 31, 1992 a board-adopted resolution indicating that by the start of the 1992-93 school year each public school within the district will be accredited or be in the process of becoming accredited as provided in section 1280 of the school code of 1976, being section 380.1280 of the Michigan Compiled Laws.

(e) The district submits to the department not later than October 31, 1992 a board-adopted resolution indicating that beginning in 1992-93 the district will annually administer a state board approved employability skills assessment as described in the school code of 1976.

(2) A district that supported a district library in 1979-80 and continues to provide support for the district library through a millage levied pursuant to former Act No. 164 of the Public Acts of 1955, as amended, being sections 397.271 to 397.276 of the Michigan Compiled Laws, shall be credited, for all computations made under this section, with the amount of millage levied for library purposes, but not to exceed 0.7 mills, if the district levies not more than 0.7 mills less than its authorized operating millage rate.

(3) State equalization allocations to a district shall be adjusted by subtracting from the allocations money received under section 3(c)(1) of title I of chapter 1124, 64 Stat. 1100, 20 U.S.C. 238, in the same proportion as the total local revenues covered under the state equalization program are to total local revenues for education in the district, except that not more than the lesser of 50% of the money received under section 3(c)(1) of title I of chapter 1124, 64 Stat. 1100, 20 U.S.C. 238, or $160.00 per pupil shall be subtracted. The proportion shall be based on prior year revenue and prior year impact aid. A deduction in any year shall not exceed the amount of deductible impact aid for which a district is eligible under section 3(c)(1) of title I of chapter 1124, 64 Stat. 1100, 20 U.S.C. 238. Any deductions made under this act shall be consistent with the requirements of section 5 of title I of chapter 1124, 64 Stat. 1100, 20 U.S.C. 240, and its regulations.

(4) As used in subsection (5):

(a) "In-formula district" means a district that receives membership aid under subsection (1), unless the district is eligible to file a statement under section 17b(6) for the state fiscal year.

(b) "Local district AGI" means in 1992-93 the result obtained by dividing the district's latest calendar year adjusted gross income for which data is available as of June 1 before the beginning of the fiscal year, as certified by the department of treasury, by the total number of state income tax returns by residents of the district for that calendar year, as certified by the department of treasury.

(c) "Out-of-formula district" means a district with 500 or more pupils that does not receive membership aid under subsection (1) or that is eligible to file a statement under section 17b(6) for the state fiscal year.

(d) "State average AGI" means the sum of the adjusted gross income of all local districts, as certified by the department of treasury, divided by the number of all state income tax returns that identify a local district, as certified by the department of treasury.

(e) "State average millage rate" means the sum of the local operating revenue of all districts divided by the sum of the state equalized valuation of all districts.

(5) Subject to subsection (8), if a district has 500 or more pupils and if the net allocation computed for a district pursuant to subsection (1) is a negative amount, there shall be a deduction against any funds otherwise tentatively allocated to the district under all other sections of this act. In 1991-92, if section 752 or 753 of the school code of 1976, being sections 380.752 and 380.753 of the Michigan Compiled Laws, is in effect not later than October 15, 1991, the total amount of the deduction under this subsection combined with a deduction under any other provision of this act that provides for a deduction applied against a district's allocation in a manner that treats out-of-formula districts differently than in-formula districts shall be not more than the deduction under this subsection for the district in the 1990-91 state fiscal year reduced by an amount equal to $1.00 for every $2.00 that the district has paid in tax base sharing payments under section 752 or 753 of the school code of 1976 in the school fiscal year ending in the 1992-92 state fiscal year.

Subject to section 17b(9), beginning in 1993-94 and in each succeeding state fiscal year, if section 752 or 753 of the school code of 1976 is in effect in the state fiscal year, the total amount of the deduction under this subsection combined with a deduction under any other provision of this act that provides for a deduction applied against a district's allocation in a manner that treats out-of-formula districts differently than in-formula districts shall be not more than the deduction for the district in the 1990-91 state fiscal year reduced by an amount equal to the amount that the district has paid in tax base sharing payments under section 752 or 753 of the school code of 1976 and that has been disbursed to in-formula districts under section 752 or 753 of the school code of 1976 in the school fiscal year ending in the state fiscal year for which the deduction is applied.

For 1992-93, or for another state fiscal year if neither section 752 nor 753 of the school code of 1976 is in effect in that other state fiscal year, there shall not be any reduction made for tax base sharing payments and the deduction made under this subsection shall be a percentage of a district's total tentative state aid allocation under all other sections of this act, which percentage is determined by the following formula:

Deduction percentage = 100 x (1-[(gross allowance per pupil divided by local revenue per pupil) x (local millage rate for the year in which the calculation is made divided by the state average millage rate for the immediately preceding year) x (state average AGI divided by the local district AGI)]).

(6) In a state fiscal year in which the percentage deduction is applied under subsection (5), the percentage obtained under subsection (5) shall not exceed 99%, and shall be applied after the following adjustments which shall be based upon per pupil or per professional staff member cost in each section 61 program and the statewide average per pupil cost in section 52 programs, as determined by the department:

(a) The categorical allocations for sections 52 and 61 shall be reduced a proportionate amount for nonresident pupils.

(b) The categorical allocations for section 52 shall be increased a proportionate amount for pupils enrolled in a program operated by another district or the intermediate district.

(7) Funds due under sections 27, 53, 75, 143, 144, and 147 shall not be counted for purposes of subsection (5).

(8) The statewide deductions made under subsection (5) shall not exceed $79,000,000.00. The department shall prorate the local district deductions as necessary.

(9) A tax levied pursuant to section 1356(4) of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1356 of the Michigan Compiled Laws, for the retirement of an operating deficit shall be considered levied for operating purposes in making computations under this section.

History: 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 8, Imd. Eff. Apr. 9, 1985;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 97, Imd. Eff. May 14, 1986;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1986, Act 298, Imd. Eff. Dec. 22, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 208, Imd. Eff. June 30, 1988;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992.

Compiler's note: Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is $2,334,299,200.00 and state appropriations to be paid to local units of government are $2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

In subsection (1) of this section, as amended by Act 118 of 1991, the governor on October 11, 1991, vetoed the following provisions: 1) in the part entitled "QUALITY INCENTIVES," the second clause of the first sentence of the first paragraph, which provides, "...and an additional $10.00 per pupil in gross allowance is allocated to a district that satisfies the requirements of subdivision (f)"; and 2) in the part entitled "QUALITY INCENTIVES," subdivision "(f)."

In subsection (1) of this section, as amended by Act 148 of 1992, the governor on July 16, 1992, vetoed the second sentence, which provided, "However, if there is an increase in state school aid fund revenue because of sales tax or use tax collected from sellers who do not have a significant physical presence in this state but engage in the regular and systematic solicitation of orders for tangible personal property by mail, telegraphic, computer data base, cable, optic, microwave, or other means of communication, there is allocated to each district an additional amount per membership pupil based on the amount of the increase, up to a maximum additional amount sufficient to guarantee the district for 1992-93 an additional combined state-local yield or gross allowance of $10.00 plus $1.00 for each mill of operating tax levied."

Constitutionality: Unrestricted state aid to school districts is not funding for an existing activity or service required of local units of government by state law and thus need not be maintained at the level provided during the 1978-79 fiscal year under Art. 9, §29, of the Michigan Constitution; only specific, identifiable programs required to be provided by school districts by statute or agency rule are included under the obligation imposed under §29 that the state not reduce the state-financed portion of the necessary costs of any activity or service required of local units of government by state law. Durant v. State Board of Education, 424 Mich. 364, 381 N.W.2d 662 (1985).

Plaintiff school districts and taxpayers brought action contending the state violated the Headlee Amendment, Const 1963, Art. 9, §32, by reducing the state financed proportion of the necessary costs incurred by school districts in providing certain state-required activities and services. The plaintiffs challenged the statutory scheme enabling to state to shift to wealthy school districts the cost of additional state spending to provide aid to poorer school districts. The Michigan Supreme Court concluded that voters intended neither to freeze legislative discretion nor permit state government full discretion in its allocation of support for mandated activities or services. The court held that the statewide-to-local ratio used for calculating the state's funding obligation preserves voter intent by providing minimum funding guarantees while simplifying calculations and avoiding inequities. The Court further held that social security coverage is not a state-required activity or service within the meaning of the Headlee amendment. Schmidt v. Dep't of Education, 441 Mich 236 (1992), __________ N.W.2d __________ ( ).

Cited in other sections: Section 388.1621 is cited in §§207.561, 207.662, 207.712, 207.779, 211.626, 320.307a, 380.751, 380.752, 380.753, 380.755, 380.1204a, 380.1277, 380.1278, and 380.1280.

LIBRARY OF MICHIGAN ACT

Act 540 of 1982

AN ACT to create the library of Michigan; to create a board of trustees for the library; to establish the qualifications of the state librarian; to provide the powers and duties of the board of trustees, the legislative council, the director of the legislative service bureau, the state librarian, and certain state officials and agencies; and to repeal certain acts and parts of acts.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

The People of the State of Michigan enact:

397.11 Short title.

Sec. 1. This act shall be known and may be cited as the "library of Michigan act".

History: 1982, Act 540, Eff. Mar. 30, 1983.

397.12 Definitions.

Sec. 2. As used in this act:

(a) "Board" means the board of trustees of the library created in section 4.

(b) "Council" means the legislative council established under section 15 of article IV of the state constitution of 1963.

(c) "Director" means the director of the legislative service bureau.

(d) "Library" means the library of Michigan.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

397.13 Library of Michigan; creation within legislative council.

Sec. 3. The library of Michigan is created within the legislative council.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

397.14 Library board of trustees; creation; duties; meetings; membership; terms; rules; election of chairperson and vice-chairperson; expenses; state librarian as secretary of board.

Sec. 4. (1) A board of trustees of the library is created within the legislative branch of state government. The board shall make budget recommendations to the council to be submitted to the house and senate appropriations committees as part of the total budget recommendations for the legislative council, and shall make recommendations to the council on the following matters:

(a) The services the library shall provide.

(b) The manner in which the services shall be provided.

(c) Other matters of general policy concerning the library.

(2) The board shall meet not less than 3 times per year, including a meeting to be held in January of each year. The board shall meet also at the call of the chairperson of the board.

(3) The board shall consist of the following:

(a) Four legislators appointed by the council, 1 from the majority party and 1 from the minority party in each house.

(b) A representative of the Michigan library association to be appointed by the governor from a list of 3 persons nominated by the Michigan library association.

(c) Two members of the general public who represent users of the state library to be appointed by the governor.

(d) One member who is a librarian from a college or university library to be appointed by the governor.

(e) One member who is a librarian from a public or private K to 12 system to be appointed by the governor.

(f) Two members who are librarians from public libraries to be appointed by the governor.

(g) One member who is a librarian from a special library to be appointed by the governor.

(h) One member who is a librarian from a state agency library to be appointed by the governor.

(i) The chief justice of the supreme court or a designee of the supreme court.

(j) The director of the legislative service bureau.

(4) Members appointed to the board by the council shall hold office for a term of 2 years to coincide with the terms of office of state representatives. Members appointed to the board by the governor shall hold office for a term of 3 years except that of the members first appointed, 3 shall be appointed for 3 years, 3 for 2 years, and 3 for 1 year.

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(5) The board shall prescribe rules for its own procedure. Annually, the board shall elect from its membership a chairperson and vice-chairperson. Members shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

(6) The state librarian shall serve as secretary of the board.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983;—Am. 1986, Act 98, Imd. Eff. May 14, 1986.

397.15 Appointment of state librarian.

Sec. 5. The council, in consultation with the board, shall appoint a state librarian who shall serve at the pleasure of the council.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

Cited in other sections: Section 397.15 is cited in §397.172.

397.16 State librarian; duties; coordination of library activities; qualifications of state librarian and assistant state librarian.

Sec. 6. (1) The state librarian shall have care and charge of the library, the administrative functions of the library, and all budgeting functions of the library. The director and state librarian shall coordinate the activities of the library with the legislative council.

(2) The state librarian shall be a graduate with a master's degree in library science and shall have not less than 4 years' experience in library work in an administrative capacity. Each assistant state librarian shall be a graduate with a master's degree in library science.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

397.17 Employment of assistants and other employees.

Sec. 7. The council, after consultation with the board, may permit the state librarian to employ other administrative and general assistants and employees as are necessary for the care and management of the library, including the law library branch of the library. Employment shall be offered first to those persons who are employed by the state library on March 30, 1983. No library employee shall convert for personal or partisan use, unrelated to library business, any supplies, services, facilities or staff provided by the state of Michigan. Nor may a library employee be required to work during paid or unpaid time to affect the result of an election.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

397.18 Property of library.

Sec. 8. The library shall succeed to the furnishings, building space, records, files, books, documents, and all other property in the possession of the state library on the effective date of this act.

History: 1982, Act 540, Eff. Mar. 30, 1983.

397.19 Library as depository for public documents; exemptions.

Sec. 9. (1) The library shall serve as a depository for each public document issued by a state official, department, board, commission, or agency. Not less than 75 copies of each document or 1 copy in the proper format as determined by the state librarian which is not issued solely for the use of a state official, department, board, commission, or agency shall be furnished to the library. Additional copies of those documents shall be supplied upon the request of the state librarian.

(2) A publication of a school, college, division, or department of a state supported college or university is exempt from the depository requirements of subsection (1), except that 2 copies of each publication shall be deposited in the library.

(3) A publication of a state supported college or university press, directive for internal administration, an intraoffice or interoffice memorandum, a state form, or other correspondence is exempt from the depository requirements of subsection (1).

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

397.20 Duties of library.

Sec. 10. (1) The library shall maintain a complete collection of the public documents deposited under section 9 as a permanent reference file. The library is charged primarily with providing reference services to the legislative branch of state government and, in addition, shall provide those services to the executive and judicial branches of state government and the general public. The law library branch is charged primarily with providing reference services to the legislative, executive and judicial branches of state government.

(2) The library shall deposit copies of each public document deposited under section 9 in each designated depository library. The depository libraries shall be designated by the state librarian. The state librarian shall designate only those libraries which will keep the documents readily accessible for use and which will render assistance for the use of the documents without charge.

(3) The library also shall:

(a) Send 1 copy of each public document deposited under section 9 to the library of congress.

(b) Prepare and issue quarterly, a complete list of public documents deposited under section 9 during the immediately preceding quarter. The lists shall be cumulated and printed at the end of each calender year. A copy shall be distributed by the library to state departments, legislators, and to public and college libraries within the state.

(c) Establish a document exchange system with agencies in other states to make available selected documents published by other states for use by the people of this state.

(d) Exchange the judicial decisions, statutes, journals, legislative and executive documents of this state, and other books placed in the care of the library for the purpose of exchange with the libraries of other states, the government of the United States, foreign countries, and societies and institutions.

(e) Sell or exchange duplicate volumes or sets of works not needed for use in the library and apply the proceeds to the purchase of other books for the library.

(f) Further, by all appropriate means, the development of effective, statewide school library services.

(g) Encourage contractual and cooperative arrangements between and among all kinds of libraries for the improvement of library services to the people of this state.

(h) Coordinate the library's library services with the library services of all kinds of libraries.

(i) Collect, preserve, and publish appropriate statistics on all kinds of libraries in the state.

(j) Conduct research and publish the results for the benefit of all kinds of libraries and the library services to the people of the state.

(k) Provide all services which the state library was authorized to provide immediately preceding the effective date of this act.

(*l*) Under the authority granted by law, promote and advance library science in this state.

History: 1982, Act 540, Eff. Mar. 30, 1983;—Am. 1983, Act 114, Imd. Eff. July 12, 1983.

397.21 Annual report of state librarian.

Sec. 11. The state librarian shall report annually to the council and to the legislature on the operations of the library and on the progress made in automating the operations of the library.

History: 1982, Act 540, Eff. Mar. 30, 1983.

397.22 Repeal of §§397.51 to 397.59, 397.1 to 397.8, and 16.409.

Sec. 12. The following acts or parts of acts are repealed:

(a) Act No. 28 of the Public Acts of 1895, being sections 397.51 to 397.59 of the Compiled Laws of 1970.

(b) Act No. 106 of the Public Acts of 1937, being sections 397.1 to 397.8 of the Compiled Laws of 1970.

(c) Section 309 of Act No. 380 of the Public Acts of 1965, being section 16.409 of the Compiled Laws of 1970.

History: 1982, Act 540, Eff. Mar. 30, 1983.

397.23 Repealed. 1986, Act 98, Imd. Eff. May 14, 1986.

Compiler's note: The repealed section read: "Effective October 1, 1986, this act is repealed."

397.24 Conditional effective date.

Sec. 14. This act shall not take effect unless Senate Bill No. 201 of the 81st Legislature is enacted into law.

History: 1982, Act 540, Eff. Mar. 30, 1983.

Compiler's note: Senate Bill No. 201, referred to in this section, was approved by the Governor on January 17, 1983, and became P.A. 1982, No. 541, Eff. Mar. 30, 1983.

DISTRIBUTION OF PENAL FINES TO PUBLIC LIBRARIES

Act 59 of 1964

AN ACT to provide for the distribution of penal fines and their application to the support of public libraries; to provide for the appointment of a county library board to receive penal fines; to define its powers and duties; and to repeal certain acts and parts of acts.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

The People of the State of Michigan enact:

397.31 Public libraries; definitions.

Sec. 1. As used in this act: (a) "Public library" means a library, the whole interests of which belong to the general public, lawfully established for free public purposes by any 1 or more counties, cities, townships, villages, school districts or other local governments or any combination thereof, or by any general or local act, but shall not include a special library such as a professional or technical library or a school library.

(b) "Qualified public library" means any public library which is open to and available to the public at least 10 hours per week or any library which has a contract with a public library board to furnish library services to the public.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

Cited in other sections: Section 397.31 et seq. is cited in §§24.2 and 397.213.

397.32 Penal fines; apportionment to county library boards.

Sec. 2. The proceeds of all fines for any breach of the penal laws of this state when collected in any county and paid into the county treasury, together with all moneys heretofore collected and paid into the county treasury on account of such fines and not already apportioned, shall be apportioned by the county treasurer in accordance with the directions of the state board for libraries, as provided in section 8, before August 1 of each year among those public libraries and county libraries established under Act No. 138 of the Public Acts of 1917, as amended, being sections 397.301 to 397.305 of the Compiled Laws of 1948, or Act No. 250 of the Public Acts of 1931, as amended, being sections 397.151 to 397.158 of the Compiled Laws of 1948, or county library boards in each county entitled to such fines under this act on a per capita basis determined by the population of the governmental unit supporting the library according to the latest decennial or special federal census.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.33 County library board; duties; membership, appointment, terms; contracts for service.

Sec. 3. In any county where there is no public library, or in any county within the boundaries of which there are municipalities which have not established public library service or which do not maintain public libraries, the county board of supervisors shall appoint a county library board to receive the per capita portion of penal fine moneys to be allocated for such areas. The county library board shall consist of 5 members appointed by the county board of supervisors for terms of 5 years each, except that the first members shall be appointed for 1, 2, 3, 4 and 5 years respectively. The board may contract with a qualified public library, within or without the county, to provide public library service for all residents of the county without legal access to a public library.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.34 County library board; powers as to new library.

Sec. 4. If, after the appointment of the county library board, the board of supervisors votes to establish a public library as authorized by Act No. 138 of the Public Acts of 1917, as amended, then the county library board appointed under section 3 shall become the governing body of the county library. In addition to the powers and duties granted in Act No. 138 of the Public Acts of 1917, as amended, the county library board shall have all of the powers and duties granted to county library boards by this act.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.35 County contracting for service; apportionment of funds; more than 1 public library.

Sec. 5. (1) If any municipality within a county has not established a public library but is contracting for public library service with the governing body of a legally established public library, it is entitled to receive its per capita share of the penal fine moneys the same as if it had a legally established public library. The moneys shall be used for the provision of public library service for all residents of the municipality.

(2) If any municipality within a county is supporting more than 1 public library, the penal fines shall be allocated to each public library in ratio to the tax support provided by the municipality to the respective public libraries.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.36 Use of penal fine moneys; report.

Sec. 6. The penal fine moneys when received by the proper authorities shall be applied exclusively to the support of public libraries and to no other purpose except as provided in section 7. A report shall be made annually to the state board for libraries as to the receipt and expenditures of the penal fine moneys, and other public moneys, by the governing boards of the public libraries or by the county library boards.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.37 Construction of act as to county law libraries.

Sec. 7. This act shall not be construed as affecting the provisions of sections 4845 and 4851 of Act No. 236 of the Public Acts of 1961, being sections 600.4845 and 600.4851 of the Compiled Laws of 1948.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.38 Statement of eligible libraries.

Sec. 8. The state board for libraries, prior to July 15 of each year, shall transmit to the clerk and treasurer of each county a statement of the public libraries or the library boards established under section 3 in his county that are entitled to receive penal fines and the population served by each.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

Cited in other sections: Section 397.38 is cited in §397.212.

397.39 Rules and regulations.

Sec. 9. The state board for libraries may adopt such rules and regulations to carry out the provisions of this act as may be deemed expedient, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

397.40 Repeal.

Sec. 10. Sections 906, 910, 911, 912, 913 and 915 of Act No. 269 of the Public Acts of 1955, as amended, being sections 340.906, 340.910, 340.911, 340.912, 340.913 and 340.915 of the Compiled Laws of 1948, are repealed.

History: 1964, Act 59, Imd. Eff. May 12, 1964.

FEDERAL FUNDS FOR LIBRARY CONSTRUCTION

Act 234 of 1964

AN ACT to make appropriations to supplement former appropriations for certain state agencies and special purposes for the fiscal year ending June 30, 1964; and to declare the intent of the act.

History: 1964, Act 234, Imd. Eff. May 27, 1964.

The People of the State of Michigan enact:

397.126 Library construction; federal funds; report.

Sec. 6. The state library is hereby authorized to accept, and use, federal funds for library construction under the provisions of Title II, P.L. 88-269, subject to the approval of the department of administration. A detailed report shall be submitted to the legislature not later than January 31 of each year.

History: 1964, Act 234, Imd. Eff. May 27, 1964.

LIBRARY NETWORK ACT OF 1971

Act 371 of 1972

AN ACT to establish a library network and to prescribe the duties and qualifications of libraries in networks.

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

The People of the State of Michigan enact:

397.131 Short title.

Sec. 1. This act shall be known and may be cited as the "library network act of 1971".

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

397.132 "Library network" defined; administrative leadership.

Sec. 2. As used in this act "library network" means the connecting of the largest research libraries in the state for the express purpose of making their collections available to all citizens in the state through interlibrary loan. The state library shall assume administrative leadership in this network concept and shall designate participating libraries.

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

397.133 Eligibility of library for membership in network; connection to state library; agreement.

Sec. 3. A library shall maintain a collection of at least 1,000,000 volumes in order to be eligible for membership in the network. A library shall be connected to the state library by means of electronic equipment and shall agree to supply for interlibrary loan any volume in its collection, not in use, except rare volumes, reference works, books on reserve for course work, volumes of serials, fragile materials, and all other library materials which are not loaned under its regulations.

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

397.134 Administration of interlibrary loan service.

Sec. 4. The state library in Lansing shall administer the interlibrary loan service for the state.

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

397.135 Application for inclusion in network.

Sec. 5. A library meeting the requirements specified for inclusion in the network shall apply to the state board of education, indicating its compliance with the provisions of this act.

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

397.136 Rules.

Sec. 6. The state board of education may promulgate rules for administration of this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948.

History: 1972, Act 371, Imd. Eff. Jan. 9, 1973.

REGIONAL LIBRARIES

Act 250 of 1931

AN ACT to provide for the establishment and maintenance of regional libraries; to provide for boards of trustees to have control of such libraries; to provide for the powers and duties of the state board for libraries in connection with such libraries; and to provide for the support of such libraries by counties.

History: 1931, Act 250, Eff. Sept. 18, 1931;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

The People of the State of Michigan enact:

397.151 Regional libraries; plan for establishment and location.

Sec. 1. The state board for libraries shall develop a plan for the establishment and location of regional libraries throughout the state based on a detailed survey of the needs of the various localities of the state. A region shall include 2 or more counties.

History: 1931, Act 250, Eff. Sept. 18, 1931;—CL 1948, 397.151;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

Cited in other sections: Sections 397.151 to 397.158 are cited in §§397.32 and 380.1264a.

397.152 Proposal to establish regional libraries; referral to county board of supervisors.

Sec. 2. On completion of the survey of any proposed region, the proposal to establish a regional library shall be referred to the boards of supervisors of all counties included in such proposed region. The boards of supervisors shall act upon such proposal by resolution, and the votes of a majority of the members-elect of the board of supervisors in each of the counties included in the proposed region shall be necessary for the adoption of such proposal. In case of the rejection of such proposal by the boards of supervisors of any of the counties included in such proposed region, the plan may be altered in accordance with such action in order to provide for a regional library in such section of the state. The vote of a majority of the members-elect of the board of supervisors in each of the counties in such altered region shall be necessary for the adoption of such proposal.

History: 1931, Act 250, Eff. Sept. 18, 1931;—CL 1948, 397.152;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

397.153 Board of trustees; membership, appointment, term, vacancies, expenses.

Sec. 3. Upon the adoption of the regional library proposal, each board of supervisors shall name members to a library board, the members to be chosen from the citizens at large of each county with reference to their fitness for office. Not more than 1 member of the board of supervisors of each county shall be at any one time a member of said library board. Each county shall be entitled to 2 members on the regional library board, the members to be appointed for a term of 4 years each, except that the first members shall be appointed, 1 for 2 years and 1 for 4 years, or until their successors have been appointed. In the case of only 2 counties joining in the regional library, the library board shall consist of not more than 4 members from each county, each for a term of 4 years, except that the first members shall be appointed, 2 for 2 years and 2 for 4 years, or until their successors have been appointed. Vacancies in the board of trustees shall be filled in like manner as the original appointments. Members of the board of trustees shall receive no compensation except their actual and necessary expenses.

History: 1931, Act 250, Eff. Sept. 18, 1931;—Am. 1947, Act 159, Eff. Oct. 11, 1947;—CL 1948, 397.153;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

397.154 Repealed. 1961, Act 116, Eff. Sept. 8, 1961.

Compiler's note: The repealed section provided for regional librarian and set forth qualifications.

397.155 Board of trustees; powers.

Sec. 5. The board of trustees of each regional library so established shall have the following powers:

(a) To establish, maintain and operate a public library for the region.

(b) To appoint a professionally qualified librarian, and the necessary assistants, and to fix their compensation. Said board shall also have the power to remove said librarian and other assistants.

(c) To purchase books, periodicals, equipment and supplies.

(d) To purchase sites and erect buildings, or to lease suitable quarters, and to have supervision and control of such property.

(e) To borrow books from and lend books to other libraries.

(f) To enter into contracts to receive service from or give service to libraries within or without the region and to give service to municipalities without the region which have no libraries.

(g) To have exclusive control of the expenditure of all moneys collected to the credit of the library fund.

(h) To make such bylaws, rules and regulations not inconsistent with this act as may be expedient for their own government and that of the library.

History: 1931, Act 250, Eff. Sept. 18, 1931;—CL 1948, 397.155;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

397.156 Appropriation for regional libraries; budget, disbursement.

Sec. 6. Sums necessary for the establishment and operation of regional libraries shall be provided by the boards of supervisors of each of the counties included in such region by an appropriation from the general fund of the respective counties, or by a tax levy for this purpose authorized by a vote of the qualified electors in each of the counties. A budget shall be proposed annually by the board of trustees of the regional library to the boards of supervisors of the counties in the region. Upon approval of such budget by a majority of each of said boards of supervisors, the proposed budget shall be effective in all counties in the region. All appropriations shall be paid to the board of trustees and disbursed under its direction by the county treasurer of the county designated by the regional library board as depository for the regional library fund.

History: 1931, Act 250, Eff. Sept. 18, 1931;—Am. 1945, Act 20, Eff. Sept. 6, 1945;—Am. 1947, Act 159, Eff. Oct. 11, 1947;—CL 1948, 397.156;—Am. 1956, Act 149, Eff. Aug. 11, 1956;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

397.157 Cities exempt from act; notification when included in proposal.

Sec. 7. Cities of a population of 5,000 or more, maintaining a public library, may be exempted from the provisions of this act on the filing with the state board for libraries of a request by the city legislative body based on action taken by them according to law. Where any such city is included in any regional library proposal the state board for libraries shall notify each city so included in writing of the provisions of this section 15 days before the reference of any regional library proposal under the provisions of section 2.

History: 1931, Act 250, Eff. Sept. 18, 1931;—Am. 1945, Act 20, Eff. Sept. 6, 1945;—CL 1948, 397.157;—Am. 1961, Act 116, Eff. Sept. 8, 1961.

397.158 Municipal libraries; transfer to regional libraries.

Sec. 8. After the establishment of a regional library as provided for in this act, the township board, the legislative body of any city or village, the board of education of any school district or the board of supervisors of any municipality in the region, already maintaining a public, school or county library, may notify the board of trustees of the regional library that such township, city, village, school district or county library may be transferred to, leased to, or used by said board of trustees of the regional library under such terms as may mutually be agreed upon between the said board of trustees and the respective township boards, city or village legislative bodies, boards of education or boards of supervisors.

History: 1931, Act 250, Eff. Sept. 18, 1931;—CL 1948, 397.158.

397.159 Repealed. 1961, Act 116, Eff. Sept. 8, 1961.

Compiler's note: The repealed section authorized state librarian to establish rules and regulations he deemed necessary.

THE DISTRICT LIBRARY ESTABLISHMENT ACT

Act 24 of 1989

AN ACT to provide for the establishment and maintenance of district libraries; to provide for district library boards; to define the powers and duties of certain state and local governmental entities; and to repeal certain acts and parts of acts.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

The People of the State of Michigan enact:

397.171 Short title.

Sec. 1. This act shall be known and may be cited as "the district library establishment act".

History: 1989, Act 24, Imd. Eff. May 22, 1989.

Cited in other sections: Section 397.171 et seq. is cited in §38.1369g.

397.172 Definitions.

Sec. 2. As used in this act:

(a) "Agreement" means a district library agreement required by section 3 or the agreement governing a district library established pursuant to former Act No. 164 of the Public Acts of 1955.

(b) "Board" means a district library board.

(c) "District" means the territory of the participating municipalities that is served by a district library established pursuant to this act.

(d) "General election" means that term as defined in the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

(e) "Largest" means, if used in reference to a participating school district, the participating school district having the most electors voting at the last regularly scheduled school board election in the participating school district.

(f) "Largest" means, if used in reference to a county, the county having the most registered electors of a district as last reported to the county clerk pursuant to section 661 of the Michigan election law, Act No. 116 of the Public Acts of 1954, being section 168.661 of the Michigan Compiled Laws.

(g) "Legislative body" means, if the municipality is a school district, the school board.

(h) "Legislative council" means the legislative council created by the legislative council act, Act No. 268 of the Public Acts of 1986, being sections 4.1101 to 4.1901 of the Michigan Compiled Laws.

(i) "Municipality" means a city, village, school district, township, or county.

(j) "Participating" means, in reference to a municipality, that the municipality is a party to an agreement.

(k) "School district" means 1 of the following but does not include a primary school district or a school district that holds meetings rather than elections:

(*i*) "Local act school district" as defined in section 5 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.5 of the Michigan Compiled Laws.

(*ii*) "Local school district" as that term is used in Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws.

(*l*) "State librarian" means the librarian appointed pursuant to section 5 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being section 397.15 of the Michigan Compiled Laws.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

Cited in other sections: Section 397.172 is cited in §211.36.

397.173 Joint establishment of district library; requirements; including portion of township, city, or village in district.

Sec. 3. (1) Two or more municipalities, except 2 or more school districts that hold their regularly scheduled elections on different dates, authorized by law to establish and maintain a library or library services may jointly establish a district library if each of the following requirements is satisfied:

(a) If the proposed district contains a public library recognized by the legislative council as lawfully established for purposes of the distribution of state aid and penal fines, the governing board of the public library approves the establishment of the district library.

(b) The legislative body of each municipality identified in the agreement pursuant to section 4 adopts a resolution providing for the establishment of a district library and approving a district library agreement.

(2) A county, township, city, or village uniting with other municipalities to establish a district library may provide in the resolution required by subsection (1) that only a portion of its territory is included in the district. The portion of a county included in a district shall be bounded by county, township, city, village, or school district boundaries. The portion of a township, city, or village to be included in the district shall be bounded by township boundaries, city boundaries, or village boundaries, respectively, and by existing district library or school district public library boundaries.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.174 District library agreement; provisions.

Sec. 4. (1) The agreement shall provide for the creation of a board to govern the operation of the district library and set forth all of the following:

(a) The identity of the municipalities establishing the district library.

(b) The method of selection of board members, whether by election or appointment; if by appointment, their term of office, the total number of board members, and the number of board members to be appointed by the legislative body of each participating municipality; and, if by election, the number of provisional board members to be appointed by the legislative body of each participating municipality.

(c) Of the amount of money to be stated in the annual budget pursuant to section 13, the percentage to be supplied by each participating municipality.

(d) The procedure for amending the agreement, which shall require the consent of the legislative bodies of not less than 2/3 of the participating municipalities.

(e) A period of time after the effective date of the agreement, not less than 1 year, during which the adoption of a resolution to withdraw from the district library pursuant to section 24 shall be void.

(f) Any distribution of district library assets to take place upon the withdrawal of a participating municipality.

(g) Any other necessary provisions regarding the district library.

(2) A district library agreement may provide that the district library board is abolished and the district library terminates unless, on or before a date stated in the agreement, the district electors approve a district library millage at a rate not less than a minimum number of mills stated in the agreement. If the district library agreement contains such a provision, the district library agreement shall specify the manner in which the net assets of the district library shall be distributed to the participating municipalities upon termination and shall contain a plan for continuing public library service to all residents of the district after termination.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.175 Submission of agreement and amendment to state librarian; approval or disapproval of agreement, amendment, or revision; statement.

Sec. 5. (1) The legislative bodies of the municipalities that establish a district library shall submit the agreement to the state librarian within 10 days following the date on which the agreement is adopted. A board shall submit an amendment to the agreement to the state librarian within 10 days following the date on which the amendment is adopted.

(2) The state librarian shall approve an agreement or an amendment to an agreement submitted pursuant to subsection (1) or a revision in board structure submitted pursuant to section 6 if it conforms to the requirements of this act and shall disapprove the agreement, amendment, or revision if it does not conform to the requirements of this act. Within 30 days following the date on which the state librarian receives an agreement, amendment, or revision, the state librarian shall send to the board or the legislative bodies that submitted the agreement, amendment, or revision a written statement of approval or disapproval. If the state librarian disapproves the agreement, amendment, or revision, the state librarian shall explain in the written statement the reasons for the disapproval, and the legislative council shall not recognize the district library as lawfully established for purposes of the distribution of state aid and penal fines until the state librarian approves an amendment or revision that causes the agreement to conform to the requirements of this act. If the state librarian fails to send a written statement of approval or disapproval within 30 days following the date on which the state librarian receives the agreement, amendment, or revision, it shall be considered approved.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.176 Organizational plan; revision of board structure and selection.

Sec. 6. Within 1 year after the effective date of this act, the board of a district library established pursuant to former Act No. 164 of the Public Acts of 1955 shall submit to the state librarian an organizational plan including the information required to be set forth in an agreement under section 4(1) and shall revise the board structure and selection to conform to section 9 or to sections 10 and 11. If the board of a district library established pursuant to former Act No. 164 of the Public Acts of 1955 complies with this section and the state librarian does not disapprove the revision of board structure and selection, the district library shall be considered to be established pursuant to this act.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.177 District library as authority.

Sec. 7. A district library established pursuant to this act constitutes an authority under section 6 of article IX of the state constitution of 1963.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.178 Candidate for appointment or election as board member; qualifications; vacancy in office of board member.

Sec. 8. (1) An individual appointed as a board member shall be a qualified elector of the participating municipality that appoints the member on the date the appointment is made. A candidate for election as a board member shall be a qualified elector of a participating municipality on the deadline for filing nominating petitions. A candidate for appointment or election shall be a resident of the district.

(2) The office of board member becomes vacant when the incumbent dies, resigns, is convicted of a felony, is removed from office by the governor pursuant to section 10 of article V of the state constitution of 1963, or ceases to be a resident of the district. In addition, the office of an appointed board member becomes vacant when the incumbent ceases to be a resident of the participating municipality that appointed the incumbent.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.179 Appointed board members; number; right to appoint; term; vacancy.

Sec. 9. If an agreement prescribes appointed board members, the board shall consist of not fewer than 5 and not more than 8 members. The agreement may provide that the right to appoint 1 or more board members rotates between 2 or more municipalities. A term shall not be more than 4 years. A member shall serve until the appointment and qualification of a successor. A vacancy shall be filled for the unexpired term by the participating municipality that appointed the member whose position is vacant.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.180 Applicability of section; number of elected board members; provisional board; election; terms; nonpartisan ballots; nomination by nonpartisan petitions; signatures; filing petition; certifying names of candidates; vacancy in office of board member.

Sec. 10. (1) This section applies to an election of board members except, if a school district is a participating municipality, to the extent that it is inconsistent with section 11.

(2) If an agreement prescribes elected board members, the board shall consist of 7 members elected at large from the district.

(3) If an agreement prescribes elected board members, a provisional board of 7 members shall be appointed. The members of the provisional board hold office until their successors are elected and qualified.

(4) The first election of board members shall take place at the first general election held 140 days or more after the appointment of the first member of the provisional board. The 4 persons receiving the most votes at the first election for board members have 4-year terms, and the 3 remaining persons elected to the board have 2-year terms. After the first election, board members shall be elected at general elections for 4-year terms that begin on January 1 following the election.

(5) Board members shall be elected on nonpartisan ballots.

(6) A nomination for the office of board member shall be by nonpartisan petitions signed by registered electors of the district. For the first election of board members, the number of signatures shall be not less than 50. For subsequent elections of board members, the number of signatures shall be not less than 1/2 of 1% of the number of persons voting in the district at the last election at which board members were elected. A nominating petition shall be filed with the clerk of the largest county not later than 4 p.m. of the day 110 days before the date of the election. The county clerk with whom nominating petitions are filed shall certify the names of the candidates to the clerk of every other county in which all or part of a participating municipality is located.

(7) A vacancy in the office of a board member shall be filled until the expiration of the vacating board member's term by appointment by majority vote of the remaining board members. However, if the vacancy occurs 140 or more days or, if a school district is a participating municipality, 13 or more Mondays before the first regularly scheduled election of board members that follows the beginning of the term of the board member vacating office and that term is 4 years, all of the following apply:

(a) The vacancy shall be filled by appointment by majority vote of the remaining board members only until the next date on which the term of any board member expires.

(b) A board member shall be elected at the regularly scheduled election of board members next following the occurrence of the vacancy to fill the vacancy for the remainder of the term of the board member vacating office.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.181 Provisions applicable where school district is participating municipality.

Sec. 11. If a school district is a participating municipality, the following apply to an election of board members for a district library:

(a) The first election of board members shall take place at the same time as the first regularly scheduled election of school board members in the largest participating school district occurring on or after the thirteenth Monday following the appointment of the first member of the provisional board. The term of office of an elected member of the board begins at the same time as the term of a school board member elected at the same election in the largest participating school district.

(b) A nomination for the office of board member shall be by a petition meeting to the extent applicable the same requirements, including filing requirements, as a nominating petition for the office of school board member in the largest participating school district. However, the petition shall be filed not later than 4 p.m. of the ninth Monday preceding the election. For the first election of board members, the number of signatures shall be not less than 50. For subsequent elections of board members, the number of signatures shall be not less than 1/2 of 1% of the number of persons voting in the district at the last election at which board members were elected. A nominating petition shall be filed with the secretary of the school board of the largest participating school district. The secretary of that school board shall certify the names of the candidates and the date of the election to the secretary of the school board of every other participating school district and to the election officials authorized by this act to conduct the election in each participating municipality all or a portion of which is located within a nonparticipating school district.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.182 Powers of board; compensation and expenses of board members; deposit and expenditure of money in district library fund.

Sec. 12. (1) A board may do 1 or more of the following:

(a) Establish, maintain, and operate a public library for the district.

(b) Appoint and remove officers from among its members.

(c) Appoint and remove a librarian and necessary assistants and fix their compensation.

(d) Acquire real or personal property for use for library purposes by purchase, land contract, installment purchase contract, lease with or without option to purchase, or title retaining contract.

(e) Erect buildings.

(f) Supervise and control district library property.

(g) Enter into a contract to receive library-related service from or give library-related service to a library or a municipality within or without the district.

(h) Adopt bylaws and regulations, not inconsistent with this act, governing the board and the district library.

(i) Propose and levy upon approval of the electors as provided in this act a tax for support of the district library.

(j) Borrow money pursuant to the district library financing act, Act No. 265 of the Public Acts of 1988, being sections 397.281 to 397.290 of the Michigan Compiled Laws.

(k) Issue bonds pursuant to Act No. 265 of the Public Acts of 1988.

(*l*) Accept gifts and grants for the district library.

(m) Do any other thing necessary for conducting the district library service, the cost of which shall be charged against the district library fund.

(2) A board may reimburse a board member for necessary expenses that the member incurs in the performance of official duties. A board may compensate board members for attending meetings of the board and shall include the amount of compensation in the annual budget. Compensation shall not exceed $30.00 per board member per meeting. A board member shall not be compensated for attending more than 52 meetings per year.

(3) Money for the district library shall be paid to the board and deposited in a fund known as the district library fund. The board shall exclusively control the expenditure of money deposited in the district library fund.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.183 Determination of money necessary for establishment and operation of district library districtwide tax; payment by participating municipality; approval of tax; library tax.

Sec. 13. (1) Subject to any limitation in the district library agreement on the amount of the district library annual budget or the amount or percentage of an increase in the district library annual budget, or both, that applies in the absence of a districtwide tax approved by the electors, the board shall annually determine the amount of money necessary for the establishment and operation of the district library and shall state that amount in an annual budget of the district library.

(2) All or part of the money necessary for the establishment and operation of a district library may be supplied by a tax levied by the district library on the taxable property in the district. A district library shall not levy a tax authorized by this

subsection unless the tax is approved as provided in section 15. However, a districtwide tax in effect or authorized to be levied by a district library established pursuant to former Act No. 164 of the Public Acts of 1955 may be levied by the district library at the rate and for the period of time originally authorized without being approved as provided in section 15.

(3) A districtwide tax or taxes authorized by subsection (2) shall not exceed 2 mills. However, if 1 or more of the participating municipalities had a legally established public library with an authorized tax levy of more than 2 mills on the day before the effective date of this act, the district library may, pursuant to subsection (2), levy on the taxable property of the district a tax or taxes of not more than the greatest number of mills authorized to be levied by any such participating municipality for its public library on the day before the effective date of this act.

(4) Of the amount of money stated in the annual budget pursuant to subsection (1) that is not supplied by a districtwide tax, the legislative body of each participating municipality shall annually pay to the board the percentage set forth in the agreement pursuant to section 4. A participating municipality may make the payment by appropriating money from its general fund or by levying a tax for district library purposes on the taxable property in the municipality, or both.

(5) A participating municipality shall not levy a tax authorized by subsection (4) unless the tax is approved by a majority of the electors who reside in the participating municipality and vote on the proposal. Not less than 60 days before the date of the election, the legislative body of a participating municipality shall certify a proposed tax to the clerk of the municipality or, if the participating municipality is a school district, to the secretary of the school board for inclusion on the ballot.

(6) A library tax in effect or authorized to be levied by a participating municipality before the municipality became a party to an agreement may be levied at the rate and for the period of time originally authorized and used as a source of all or part of the percentage of money set forth in the agreement pursuant to section 4, unless prohibited by the millage authorization.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.184 Provisions governing elections.

Sec. 14. (1) An election for or recall of board members and an election for a districtwide tax shall be conducted under the provisions of the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, and applicable provisions of the school code of 1976, Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws, except to the extent that those provisions are inconsistent with the provisions of this act.

(2) If none of the participating municipalities are school districts, an election for a districtwide tax is governed by sections 15 to 18 and section 23. If 1 or more of the participating municipalities are school districts, an election for a districtwide tax is governed by section 15 and sections 19 to 23.

(3) If none of the participating municipalities are school districts, an election for district library board members is governed by sections 16 to 18 and section 23. If 1 or more of the participating municipalities are school districts, an election for district library board members is governed by sections 19 to 23.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.185 Ballot proposal for districtwide tax; amount of millage; adoption by resolution; certification; special election; authorization of tax levy; limitation on elections.

Sec. 15. (1) A ballot proposal for a districtwide tax shall state the amount of the millage.

(2) If none of the participating municipalities are a school district, a proposal for a districtwide tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of each county in which all or part of the district is located for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election not occurring within 45 days of a state primary or a general election, as specified by the board's resolution.

(3) If 1 or more of the participating municipalities are school districts, a proposal for a districtwide tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the secretary of the school board of the largest participating school district. The board shall certify the proposal for inclusion on the ballot at the next regularly scheduled election of school board members in the largest participating school district or at a special election not occurring within 45 days of a state primary or a general election, as specified by the board's resolution. The school board secretary to whom the ballot proposal was certified shall promptly certify the proposal and date of election to the secretary of the school board of every other participating school district and to the election officials authorized by this act to conduct the election in the participating municipalities or the portions of participating municipalities located within a nonparticipating school district.

(4) If a special election is requested, within 10 days after receiving the proposal, the school board secretary to whom the resolution was certified by the board or the county clerk of the largest county shall request approval of a special election date from the county election scheduling committee of the school board secretary's school district or the clerk's county. The

proposal shall be submitted to the qualified and registered electors residing in the district on the date approved by that county election scheduling committee.

(5) If a majority of the votes cast on the question of a districtwide tax is in favor of the proposal, the tax levy is authorized. No more than 2 elections shall be held in a calendar year on a proposal for a districtwide tax.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.186 Providing ballots.

Sec. 16. If none of the participating municipalities are a school district, the county election commission of each participating county and each county in which all or part of a participating municipality is located shall provide ballots for an election for board members or a districtwide tax for each participating municipality or part of a participating municipality located within the county.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.187 Conduct of election; list of electors.

Sec. 17. (1) Except as otherwise provided in subsection (3), if none of the participating municipalities are school districts, an election for board members or a districtwide tax shall be conducted by the city and township clerks and election officials of the municipalities located within the district.

(2) If an election on a proposal for a districtwide tax is to be held in conjunction with a general election or state primary election or board members are to be elected and if a participating village is located within a nonparticipating township, the township clerk and election officials shall conduct the election. On the forty-fifth day preceding the election, the village clerk shall provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village or the portion of the village that is included in the district. By the fifteenth day preceding the election, the village clerk shall provide to the township clerk information updating the list as of the close of registration. Persons appearing on the list as updated are eligible to vote in the district election by special ballot.

(3) If a districtwide tax is to be voted on at a special election not held in conjunction with a general election or state primary election and if a participating village is located within a nonparticipating township, the village clerk and election officials shall conduct the election.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.188 Publication of notices of close of registration and election; canvass and certification of results of election.

Sec. 18. (1) If an election for board members or a districtwide tax is to be held in conjunction with a general election or a state primary election immediately preceding a general election and none of the participating municipalities are school districts, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, if none of the participating municipalities are school districts, the county clerk of the largest county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) If none of the participating municipalities are school districts, the results of an election for board members or a districtwide tax shall be canvassed by the board of county canvassers of each county in which a participating municipality is located. The board of county canvassers of a county in which a participating municipality is located and which is not the largest county shall certify the results of the election to the board of county canvassers of the largest county. The board of county canvassers of the largest county shall make the final canvass of an election for board members or a districtwide tax based on the returns of the election inspectors of the participating municipalities in that county and the certified results of the board of county canvassers of every other county in which a participating municipality is located. The board of county canvassers of the largest county shall certify the results of the election to the district library board and issue certificates of election.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.189 Printing and providing ballots.

Sec. 19. If 1 or more participating municipalities are school districts, the secretary of the school board of each participating school district shall provide for the printing of ballots for that school district. The secretary of the school board of the largest participating school district shall provide ballots for an election for board members or a districtwide tax for a participating municipality or part of a participating municipality located within a nonparticipating school district.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.190 Conduct of election for board members or districtwide tax.

Sec. 20. If 1 or more participating municipalities are school districts, the election for board members or a districtwide tax shall be conducted as follows:

(a) The officials otherwise authorized by law to conduct elections in a participating school district shall conduct the election in that school district.

(b) If all or a portion of the participating municipality is located within a nonparticipating school district that is holding an election on the same day as the election for board members or a districtwide tax, the officials authorized by law to conduct elections in the nonparticipating school district shall conduct the election for board members or a districtwide tax in the participating municipality or that portion of the participating municipality located within the nonparticipating school district. The qualified and registered electors of the participating municipality that reside within the nonparticipating school district shall vote in the election for board members or a districtwide tax by special ballot at their regular polling places in the election in the nonparticipating school district. Those qualified and registered electors shall be identified from the registration records of the nonparticipating school district or from a list of the names, addresses, and birth dates of qualified and registered electors of the participating municipality who reside in the nonparticipating school district and are eligible to vote in elections for board members or a districtwide tax. Such a list shall be supplied and updated by the clerk of the participating municipality at the request of the secretary of the school board or other official authorized by law to conduct the election.

(c) If all or a portion of a participating municipality is located within a nonparticipating school district that is not holding an election on the same day as the election for board members or a districtwide tax, the officials authorized by law to conduct elections in the participating municipality shall conduct the election for board members or a districtwide tax in the participating municipality or that portion of the participating municipality located within the nonparticipating school district.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.191 Publication of notices for election of board members or districtwide tax; publication of notices of close of registration and election; ballot language of proposal.

Sec. 21. (1) If an election for district board members or a districtwide tax is conducted by a participating school district pursuant to section 20(a), the official required by law to publish notices of the close of registration and election for a school district election in that school district shall publish the notices for the election for board members or a districtwide tax in that school district.

(2) If an election for board members or a districtwide tax is conducted in a participating municipality or a portion of a participating municipality by a nonparticipating school district, pursuant to section 20(b), the official required by law to publish the notices of close of registration and election for a school district election in that school district shall publish the notices for the election for board members or a districtwide tax for the participating municipality or portion of a participating municipality located within that school district. The notices of close of registration and election shall designate the participating municipality for all or a portion of which the election is being conducted pursuant to section 20(b).

(3) If an election for board members or a districtwide tax is conducted by a participating municipality pursuant to section 20(c), the clerk of the participating municipality shall publish notices of close of registration and election for the participating municipality or that portion of the participating municipality located in the nonparticipating school district.

(4) A notice of close of registration published under this section shall contain the ballot language of the proposal.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.192 Canvass and certification of results of election.

Sec. 22. (1) If an election for district board members or a districtwide tax is conducted by a participating school district pursuant to section 20(a), the board of canvassers required by law to canvass the results of a school district election in that school district shall canvass the results of an election for board members or a districtwide tax in that school district and, if the school district is not the largest participating school district, certify the results of the election to the board of canvassers of the largest participating school district.

(2) If an election for board members or a districtwide tax is conducted in a participating municipality or a portion of a participating municipality by a nonparticipating school district pursuant to section 20(b), the board of canvassers required by law to canvass the results of a school district election in that school district shall canvass the results of an election for board members or a districtwide tax in the participating municipality or portion of the participating municipality located within the nonparticipating school district and certify the results to the board of canvassers of the largest participating school district.

(3) If an election for board members or a districtwide tax is conducted by a participating municipality pursuant to section 20(c), the board of canvassers required by law to canvass the results of a municipal election in that municipality shall canvass the results of an election for board members or a districtwide tax in the participating municipality or that portion of the participating municipality located within the nonparticipating school district and certify the results of the election to the board of canvassers of the largest participating school district.

(4) The board of canvassers required by law to canvass the results of elections held in the largest participating school district shall make the final canvass of the election for board members or a districtwide tax based on the returns received from the election inspectors of that district and certified results received from other boards of canvassers that canvassed part of the election. The board of canvassers required by law to canvass the results of a school district election in the largest participating school district shall certify the total results of the election to the board and issue certificates of election.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.193 Reimbursement for costs of election.

Sec. 23. (1) A county clerk shall charge the district library and the district library shall reimburse the county for the actual costs the county incurs in an election for board members or a districtwide tax.

(2) If a participating township, city, or village conducts an election for district library board members or a districtwide tax, the clerk of that municipality shall charge the district library and the district library shall reimburse the municipality for the actual costs the municipality incurs in conducting the election if 1 or more of the following apply:

(a) The election is not held in conjunction with a regularly scheduled election in that municipality.

(b) Only a portion of the territory of the municipality is included in the district.

(c) The election is conducted pursuant to section 20(c) in conjunction with a regularly scheduled election in the municipality and a portion of the municipality lies within the boundaries of a nonparticipating school district.

(3) If a school district conducts an election for district library board members or a districtwide tax, the officials authorized by law to conduct the election shall charge the district library and the district library shall reimburse the school district for the actual costs that the school district incurs in conducting the election if 1 or more of the following apply:

(a) The school district is a participating school district and the election is not held in conjunction with a regularly scheduled election in that school district.

(b) The school district is a nonparticipating school district conducting the election for a participating municipality all or part of which is located within the school district.

(4) In addition to costs reimbursed pursuant to subsection (1), (2), or (3), a municipality shall charge the district library and the district library shall reimburse the municipality for actual costs that the municipality incurs and that are exclusively attributable to an election for board members or a districtwide tax.

(5) The actual costs that a county, township, city, village, or school district incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.194 Withdrawal of municipality from district library; amendment of agreement.

Sec. 24. (1) Except to the extent that the agreement provides otherwise, a participating municipality in which a district library tax is in effect or authorized to be levied by the district library or by the participating municipality may withdraw from the district library if each of the following requirements is satisfied:

(a) Not less than 2 months before the next regularly scheduled election of the municipality, the legislative body of the municipality adopts a resolution to withdraw from the district library on a date specified in the resolution. The date specified shall be not less than 6 months after the next regularly scheduled election of the municipality.

(b) Notice of an election on the resolution is published in a newspaper published or of general circulation in the municipality not less than 10 days before the next regularly scheduled election of the municipality following adoption of the resolution.

(c) The resolution is approved by a majority of the electors of the municipality voting on the resolution at the next regularly scheduled election of the municipality following adoption of the resolution. If only a portion of the territory of a municipality is included in the district, the vote shall be conducted only in that portion of the municipality included in the district.

(d) After approval of the resolution by the electors, the clerk of the municipality or, if the municipality is a school district, the secretary of the school board files with the library of Michigan a copy of the official canvass statement and a certified copy of the resolution and files with the board a copy of the official canvass statement and a number of certified copies of the resolution sufficient for distribution to the legislative body of each of the participating municipalities.

(e) Payment or the provision for payment to the district library or its creditors of all obligations of the municipality seeking to withdraw is made.

(f) The legislative body of the withdrawing municipality furnishes to the library of Michigan a plan for continuing, after the municipality no longer receives library services from the district library, public library service for all residents of the withdrawing municipality or the portion of the territory of the withdrawing municipality that is included in the district.

(2) A district library tax in effect or authorized to be levied by the district library or by the withdrawing municipality before the adoption of the resolution to withdraw shall be levied in the municipality for its original purpose but only for the period of time originally authorized and only so long as the board continues in existence. In addition, a municipality that withdraws from a district library shall continue to receive library services from the district library so long as a districtwide tax authorized to be levied before the withdrawal of the municipality continues to be levied in the municipality and the district library remains in operation.

(3) Except to the extent that the agreement provides otherwise, a participating municipality in which no district library tax is in effect or authorized to be levied by either the district library or the participating municipality may withdraw from the district library if all of the following requirements are satisfied:

(a) The legislative body of the municipality adopts a resolution to withdraw from the district library on a date specified in the resolution. The withdrawal date shall follow the date of the resolution by not less than 1 year.

(b) The clerk of the municipality or, if the municipality is a school district, the secretary of the school board files with the library of Michigan a certified copy of the resolution and files with the board a number of certified copies of the resolution sufficient for distribution to the legislative bodies of each of the participating municipalities.

(c) The requirements of subsection (1)(e) and (f) are met.

(4) After the withdrawal of a municipality, the agreement shall be amended to reflect the withdrawal.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.195 Municipality other than school district as party to existing agreement; requirements; acceptance conditioned on authorization of tax.

Sec. 25. (1) A municipality other than a school district may become a party to an existing agreement if the agreement's requirements concerning the addition of a participating municipality are satisfied, or, in the absence of requirements in the agreement, if each of the following requirements is satisfied:

(a) The legislative body of the municipality resolves by majority vote that the municipality become a participating municipality and that all or, pursuant to section 3(2), a portion of the territory of the municipality be added to the district.

(b) The resolution is conditioned upon the board's adopting, within a period of time specified in the resolution, amendments to the agreement specified in the resolution. The amendments specified shall reflect the addition of the municipality or of the territory to the district and shall include, but need not be limited to, changes in board representation or the percentage of funds necessary for the establishment and operation of the district library to be supplied by each participating municipality after the municipality becomes a party to the agreement.

(c) The board amends the agreement within the time and in the manner specified in the resolution of the legislative body of the municipality. Notwithstanding anything to the contrary in the procedure for amending the agreement set forth in the agreement pursuant to section 4, the amendment shall be made by majority vote of the members of the board elected or appointed and serving.

(2) If there is a districtwide library tax, the board shall condition acceptance of the municipality or portion of the territory of the municipality into the district on the authorization of that tax by a majority of the electors of the municipality or portion of the territory of the municipality voting on the proposal.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

397.196 Repeal of §§397.271 to 397.276.

Sec. 26. Act No. 164 of the Public Acts of 1955, being sections 397.271 to 397.276 of the Michigan Compiled Laws, is repealed.

History: 1989, Act 24, Imd. Eff. May 22, 1989.

CITY, VILLAGE, AND TOWNSHIP LIBRARIES

Act 164 of 1877

AN ACT to authorize cities, incorporated villages, and townships to establish and maintain, or contract for the use of, free public libraries and reading rooms.

History: 1877, Act 164, Eff. Aug. 21, 1877;—Am. 1984, Act 128, Imd. Eff. June 1, 1984.

The People of the State of Michigan enact:

397.201 Public library and reading room; establishment and maintenance by city council; tax levy; library fund; tax additional to tax limitation.

Sec. 1. (1) The city council of each incorporated city may establish and maintain a public library and reading room for the use and benefit of the inhabitants of the city. The city council may levy a tax of not to exceed 1 mill on the dollar annually on all the taxable property in the city. If approved by a majority of the voters voting on the proposal at the regular annual election, the city council may increase the tax levied by not to exceed 1 additional mill on the dollar annually on all the taxable property in the city. The tax shall be levied and collected in the same manner as other general taxes of the city, and shall be deposited in a fund to be known as the "library fund."

(2) The tax levied under this section shall be in addition to any tax limitation imposed by a city charter.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5175;—CL 1897, 3449;—CL 1915, 3431;—CL 1929, 8059;—CL 1948, 397.201;—Am. 1986, Act 133, Imd. Eff. June 16, 1986.

Cited in other sections: Section 124.351 is cited in §211.36.

397.202 Board of directors; members, qualifications.

Sec. 2. When any city council shall have decided to establish and maintain a public library and reading room under this act, the mayor of such city shall, with the approval of the city council, proceed to appoint a board of 5 directors for the same, chosen from the citizens at large, with reference to their fitness for such office, and not more than 1 member of the city council shall be at any 1 time a member of said board.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5176;—CL 1897, 3450;—CL 1915, 3432;—CL 1929, 8060;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.202.

397.203 Board of directors; appointment, terms, removal.

Sec. 3. The offices of boards of directors heretofore appointed under this act, consisting of 9 members, are hereby declared vacant on July 1, 1932, and a board of 5 directors to succeed them or a board of directors of 5 members for a library newly established hereunder shall be first appointed as follows: 1 director shall be appointed for a term of 5 years, 1 director shall be appointed for a term of 4 years, 1 director shall be appointed for a term of 3 years, 1 director shall be appointed for a term of 2 years, 1 director shall be appointed for a term of 1 year, and annually thereafter the mayor shall appoint 1 member of such board of directors for a term of 5 years. The mayor may, by and with the consent of the city council, remove any director for misconduct or neglect of duty.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5177;—CL 1897, 3451;—CL 1915, 3433;—CL 1929, 8061;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.203.

397.204 Board of directors; vacancies, compensation.

Sec. 4. Vacancies in the board of directors occaisioned by removals, resignation or otherwise, shall be reported to the city council, and be filled in like manner as original appointments, and no director shall receive compensation as such.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5178;—CL 1897, 3452;—CL 1915, 3434;—CL 1929, 8062;—CL 1948, 397.204.

Compiler's note: The word "occaisioned" in this section should read "occasioned."

397.205 Board of directors; officers, powers and duties; library fund, expenditures, accounting.

Sec. 5. Said directors shall, immediately after appointment, meet and organize, by the election of 1 of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules, and regulations for their own guidance and for the government of the library and reading room, as may be expedient, not inconsistent with this act. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, and of the construction of any library building, and of the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose: Provided, That all moneys received for such library shall be deposited in the treasury of said city to the credit of the library fund, and shall be kept separate and apart from other moneys of such city, and drawn upon by the proper officers of said city, upon the properly authenticated vouchers of the library board. Said board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of said library; shall have power to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees; and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a public library and reading room.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5179;—CL 1897, 3453;—CL 1915, 3435;—CL 1929, 8063;—CL 1948, 397.205.

397.206 City library; free use; regulations.

Sec. 6. Every library and reading room established under this act shall be forever free to the use of the inhabitants where located, always subject to such reasonable rules and regulations as the library board may adopt; and said board may exclude from the use of said library and reading room any and all persons who shall wilfully violate such rules.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5180;—CL 1897, 3454;—CL 1915, 3436;—CL 1929, 8064;—CL 1948, 397.206.

397.207 Board of directors; annual report, contents.

Sec. 7. The said board of directors shall make, at the end of each and every year from and after the organization of such library, a report to the city council, stating the condition of their trust at the date of such report the various sums of money received from the library fund and from other sources, and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift, or otherwise during the year; the number lost or missing; the number of visitors attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information, and suggestions as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money, as well as the number of books on hand, books lost or missing, and books purchased, shall be verified by affidavit.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5181;—CL 1897, 3455;—CL 1915, 3437;—CL 1929, 8065;—CL 1948, 397.207.

397.208 City library; injury to property, ordinances, penalties.

Sec. 8. The city council of said city shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon such library, or the grounds or other property thereof, or for wilful injury to or failure to return any book belonging to such library.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5182;—CL 1897, 3456;—CL 1915, 3438;—CL 1929, 8066;—CL 1948, 397.208.

397.209 City library; donations, acceptance.

Sec. 9. Any person desiring to make donations of money, personal property, or real estate for the benefit of such library, shall have the right to vest the title to money or real estate so donated in the board of directors created under this act, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property; and as to such property, the said board shall be held and considered to be special trustees.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5183;—CL 1897, 3457;—CL 1915, 3439;—CL 1929, 8067;—CL 1948, 397.209.

397.210 Free public library in village or township; petition to levy tax for establishment; notice of election; library fund; board of directors; estimate of money necessary for support and maintenance of library; report; assessment and collection of tax; powers of corporate authorities; library as authority under state constitution.

Sec. 10. (1) When 50 voters of any incorporated village or township present a petition to the clerk of the village or township, asking that a tax may be levied for the establishment of a free public library in the village or township, and specify in their petition the rate of taxation, not to exceed 2 mills on the dollar, the clerk, in the next legal notice of the regular annual election in that village or township, shall give notice that at the election every voter may vote on the proposition including the rate of taxation for the free public library. If the majority of all the votes cast in the village or township is for the tax for a free public library, the tax specified in the notice shall be levied and collected in the same manner as other general taxes of that village or township, and shall be placed in a fund known as the library fund. When a free public library is established and a board of directors elected and qualified, that board of directors, on or before the first Monday of September in each year, where it has been voted to establish a free public library by a township, and on or before the second Monday in April, where it has been voted to establish a free public library by an incorporated village, shall prepare an estimate of the amount of money necessary for the support and maintenance of the library for the ensuing year, not exceeding 2 mills on the dollar of the taxable property of the village or township. The board of directors shall report the estimate to the assessor of the village or the supervisors of the township for assessment and collection in the same manner as other village or township taxes. The tax shall be so assessed and collected. The corporate authorities of the villages or townships may exercise the same powers conferred upon the corporate authorities of cities under this act.

(2) A library established under this section constitutes an authority under section 6 of article IX of the state constitution of 1963.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5184;—Am. 1885, Act 36, Eff. Sept. 19, 1885;—CL 1897, 3458;—Am. 1907, Act 42, Imd. Eff. Apr. 11, 1907;—CL 1915, 3440;—CL 1929, 8068;—CL 1948, 397.210;—Am. 1986, Act 133, Imd. Eff. June 16, 1986.

397.210a Free public library in city; establishment; petition for tax; notice; form of ballot; library fund; preparing and reporting estimate of money necessary for support and maintenance; tax additional to tax limitation.

Sec. 10a. (1) If 50 voters of a city present a petition to the clerk of the city, asking that a tax be levied for the establishment of a free public library in that city, and specify in the petition a rate of taxation not to exceed 2 mills on the dollar, the clerk, in the next legal notice of the regular annual election in that city, shall give notice that at the regular annual election every voter may vote upon the proposition. The notice shall specify the rate of taxation mentioned in the petition. The form of the ballot shall be as follows:

"For a tax at the rate of _____ mills for a free public library, Yes [ ]

"For a tax at the rate of _____ mills for a free public library, No [ ]."

(2) If a majority of all the votes cast in the city upon the proposition is for the tax for a free public library, the tax specified in the notice shall be levied and collected in the same manner as other general taxes of that city, and shall be placed in a fund to be known as the "library fund". When the free public library has been established under this section, and a board of directors elected and qualified as provided in section 11, the board of directors on or before the first Monday in September in each year shall prepare an estimate of the amount of money necessary for the support and maintenance of the free public library for the ensuing year, not exceeding 2 mills on the dollar of the taxable property of the city. The board of directors shall report the estimate to the legislative body of the city. The legislative body shall cause to be raised by tax upon the taxable property in the city the amount of the estimate in the same manner that other general taxes are raised in the city.

(3) A tax levied under this section shall be in addition to any tax limitation imposed by a city charter.

History: Add. 1911, Act 178, Eff. Aug. 1, 1911;—CL 1915, 3441;—CL 1929, 8069;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.210a;—Am. 1980, Act 521, Eff. Mar. 31, 1981;—Am. 1986, Act 133, Imd. Eff. June 16, 1986.

397.210b Free public library established in township or village incorporated as city; continuation of library board, library, and tax.

Sec. 10b. If a township or village in which a free public library has been established pursuant to section 10 is incorporated in its entirety as a city, the library board of the free public library shall continue in office and the free public library shall continue in existence and be governed by the provisions of section 10a as if the free public library had originally been established as a free public library under section 10a. Any tax previously authorized pursuant to this act for the support of the free public library shall continue in effect after the incorporation and shall then be assessed and collected on the taxable property in the city as provided in section 10a.

History: Add. 1982, Act 286, Imd. Eff. Oct. 7, 1982.

397.210c Increasing library millage; ballot; election.

Sec. 10c. If a city, village, or township has voted on, approved, and established a library pursuant to this act before the effective date of this section and the library board of directors by resolution determines that the estimate of the amount of money necessary for the support and maintenance of the library exceeds the previous authorized millage, the question of increasing the library millage to not more than 2 mills shall be placed on the ballot for approval at the next regular annual election for that city, village, or township or at a special election for that city, village, or township, with the costs of that special election being paid from the library fund.

History: Add. 1986, Act 133, Imd. Eff. June 16, 1986.

397.211 Library board of city, village, or township; establishment; provisional or permanent; director; vacancy; powers of library board.

Sec. 11. (1) Immediately after a city, a village, or a township has voted to establish a free public library, a library board shall be established by the city, village, or township as prescribed in subsections (3) and (4).

(2) If a city, village, or township has a free public library which has not elected a library board, including a city library and board of directors established under sections 1 to 10, the city, village, or township shall establish a library board as prescribed in subsections (3) and (4).

(3) The legislative body of a city, village, or township described in subsection (1) or (2) shall appoint a provisional library board of 6 directors who shall hold office until the next annual or biennial city or village election, or township election, of a permanent library board.

(4) A permanent library board shall be established for a city, village, or township described in subsection (1) or (2) as follows:

(a) In a city or village holding an annual election, 6 directors shall be elected. The terms of 2 of the directors shall be 1 year; the terms of 2 of the directors shall be 2 years; and the terms of 2 of the directors shall be 3 years. Each year thereafter, 2 directors shall be elected for 3-year terms.

(b) In a city or village that holds biennial elections, 6 directors shall be elected. The terms of 2 of the directors shall be 2 years; the terms of 2 of the directors shall be 4 years; and the terms of 2 of the directors shall be 6 years. Biennially thereafter, 2 directors shall be elected for 6-year terms.

(c) In a township holding elections for township officers every 4 years, 6 directors shall be elected for 4-year terms at the primary and general elections in 1984. A term of office shall not be shortened by this subdivision. A director scheduled by this section before March 31, 1981, to be elected at a time other than 1984 shall not be elected on the date scheduled, but shall continue in office until a successor takes office pursuant to the election of 1984.

(d) The directors shall be nominated and elected on nonpartisan ballots. A candidate for city, village, or township library director shall file nonpartisan nominating petitions bearing the signatures of a number of registered and qualified electors of that city, village, or township equal to not less than 1% of the total number of votes cast for the chief elected officer of that city, village, or township in the last election in which the officer was elected. The Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, shall govern the circulation and filing of nonpartisan nominating petitions and the conduct of nonpartisan elections under this section.

(5) A director shall hold office until a successor is elected and qualified.

(6) A library board shall fill a vacancy in a directorship by appointment of a person to hold office until the next election.

(7) A provisional or permanent library board has the powers prescribed in section 5.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5185;—CL 1897, 3459;—Am. 1905, Act 67, Eff. Sept. 16, 1905;—CL 1915, 3442;—CL 1929, 8070;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—Am. 1945, Act 60, Imd. Eff. Mar. 28, 1945;—CL 1948, 397.211;—Am. 1978, Act 130, Imd. Eff. May 4, 1978;—Am. 1980, Act 114, Imd. Eff. May 14, 1980;—Am. 1980, Act 521, Eff. Mar. 31, 1981;—Am. 1984, Act 138, Imd. Eff. June 1, 1984;—Am. 1988, Act 432, Imd. Eff. Dec. 27, 1988.

Cited in other sections: Section 397.211 is cited in §168.358.

397.212 Applicability of §§397.210a and 397.211; exception; organization of existing public library under §397.210a.

Sec. 12. Except as otherwise provided in section 10b, sections 10a and 11 do not apply to a city, village, or township maintaining a public library under a special act or to a public library contained in the 1979 statement prepared by the state board for libraries pursuant to section 8 of Act No. 59 of the Public Acts of 1964, being section 397.38 of the Michigan Compiled Laws. However, an existing public library may, by petition, be organized under section 10a regardless of the library's original organization.

History: 1877, Act 164, Eff. Aug. 21, 1877;—How. 5186;—CL 1897, 3460;—CL 1915, 3443;—CL 1929, 8071;—CL 1948, 397.212;—Am. 1978, Act 130, Imd. Eff. May 4, 1978;—Am. 1980, Act 521, Eff. Mar. 31, 1981;—Am. 1982, Act 286, Imd. Eff. Oct. 7, 1982.

397.213 Use of library services by adjacent township, village, or city; contract; payment.

Sec. 13. (1) Notwithstanding a contrary city, village, or township charter provision, a township, village, or city adjacent to a township, village, or city that supports a free public circulating library and reading room under this act may contract for the use of library services with that adjacent township, village, or city.

(2) A township, city, or village may pay for the use of library services contracted for under subsection (1) by levying a tax not to exceed 2 mills of its state equalized valuation, by use of money from the municipality's general fund, or with money received under Act No. 59 of the Public Acts of 1964, being sections 397.31 to 397.40 of the Michigan Compiled Laws. A tax shall not be levied or increased under this section unless a majority of the electors of the municipality voting on the question vote in favor of the tax.

History: Add. 1903, Act 19, Eff. Sept. 17, 1903;—CL 1915, 3444;—CL 1929, 8072;—CL 1948, 397.213;—Am. 1984, Act 128, Imd. Eff. June 1, 1984;—Am. 1987, Act 216, Imd. Eff. Dec. 22, 1987.

397.214 Contract with township, city, or village for use of library and reading room; procedure; tax levy; library fund.

Sec. 14. (1) Upon receipt of a petition signed by not less than 10% of the electors in any township based on the highest vote cast at the last regular election for township officers of the township, addressed to the township board, requesting that a meeting be called of the electors in the township, to consider making a contract with any township, city, or village supporting and maintaining a free public circulating library and reading room under this act, or under any special act, for the use of its privileges by the residents of the township, the township board shall call a meeting of the electors of the township by posting notices in at least 5 public places within the township not less than 10 days before the meeting. The electors present at the meeting shall determine whether the township shall enter into a contract for the use of a free public circulating library and reading room in any township, city, or village and the rate of taxation to be levied for the purpose of paying for that use if the electors decide to enter into such a contract. However, a tax so levied shall not exceed 1 mill of the state equalized valuation of the township. If a majority of those present and voting are in favor of the township contracting for the use of a free public circulating library and reading room maintained in any township, city, or village, the township board may enter into a contract and shall levy and collect the tax provided for in this subsection, which tax when collected shall be placed in a fund to be known as the "library fund". The money in the library fund shall be paid over by the township treasurer to the treasurer of the township, city, or village in which the library is located, on the first day of January, February, and March of each year, to be disbursed subject to the provisions of section 5. This subsection is not a limitation on the contractual power of a legislative body of a city, village, or township under section 13.

(2) Notwithstanding any contrary provision in a township, city, or village charter, the library board of directors of a township, city, or village supporting and maintaining a free public circulating library and reading room under this act, or under any special act, may enter into a contract with another township, city, or village to permit the residents of that other township, city, or village the full use of the library and reading room, upon terms and conditions to be agreed upon between the library board of directors and the legislative body of the other township, city, or village. A contract entered into pursuant to this subsection shall be executed for a term of 3 years, shall be automatically extended for an indefinite term after the initial 3-year period, and shall be terminable by either party only on the giving of 6 months' notice of the intent to terminate the contract.

History: Add. 1903, Act 19, Eff. Sept. 17, 1903;—Am. 1911, Act 272, Eff. Aug. 1, 1911;—CL 1915, 3445;—CL 1929, 8073;—Am. 1931, Act 248, Eff. Sept. 18, 1931;—CL 1948, 397.214;—Am. 1984, Act 128, Imd. Eff. June 1, 1984.

397.215 Contract for use of library services by county; joint library board; number of directors; provisions of contract; vacancies; removal of director; vacating offices of directors; powers and duties of joint library board.

Sec. 15. (1) In a county which does not have a county library established under Act No. 138 of the Public Acts of 1917, being sections 397.301 to 397.305 of the Michigan Compiled Laws, or counties in which the population exceeds 1,000,000, a contract for use of library services under section 13 may provide for joint representation on the library board of directors. A joint library board shall not have more than 9 directors.

(2) A contract for use of library services that provides for joint representation may provide that a director serving on a library board on the day before the establishment of a joint library board shall become a director of the joint library board and shall serve out the balance of his or her unexpired term.

(3) A contract for the use of library services shall specify all of the following:

(a) Whether those directors added to an existing library board to create a joint library board are elected or appointed.

(b) The method of election or appointment of those directors added to an existing library board to create a joint library board.

(c) Lengths of terms of office of those directors added to an existing library board to create a joint library board. The terms of the added directors shall be staggered. If a contract establishing a joint library board is terminated, the terms of all added directors shall end on the date of termination.

(d) The method of removal of, and the causes upon which removal may be based for, a director added to an existing library board to create a joint library board.

(e) The method of filling a vacancy in the office of a director added to an existing library board to create a joint library board. A vacancy shall be filled for the balance of the unexpired term.

(f) Any other provision which is considered necessary or advisable.

(4) Selection, length of terms, manner of filling vacancies, and removal of the directors of the existing library board who become directors on the joint library board shall continue to be governed by state law or by the township, city, or village charter.

(5) If a contract for use of library services that provides for joint representation does not provide that directors on the existing board become directors on the joint library board, the offices of the directors of the existing board shall be vacated on the date the joint board assumes jurisdiction and the contract shall include those provisions required by subsection (3) which shall apply to the entire joint library board.

(6) A joint library board established under this section has the same powers and duties as a city library board under sections 5 to 7.

History: Add. 1984, Act 128, Imd. Eff. June 1, 1984.

Uncompiled section: Former section 15 of this act was not compiled.

397.216 Rights in use and benefits of library; uniform rules and regulations.

Sec. 16. After fulfilling the contractual requirements, the people of a township, village, or city which has contracted for library services with another township, village, or city shall have all rights in the use and benefits of the library that they would have if they lived in the township, village, or city where the library is established, subject to uniform rules and regulations established by the board of library directors.

History: Add. 1903, Act 19, Eff. Sept. 17, 1903;—CL 1915, 3446;—CL 1929, 8074;—CL 1948, 397.216;—Am. 1984, Act 128, Imd. Eff. June 1, 1984.

397.217 Joint municipal libraries; villages and cities.

Sec. 17. The people of villages may join with townships, or townships with villages, or either with cities, by complying with similar provisions, as aforesaid in this act, and as amended, for the purpose of maintaining, supporting and receiving the benefits from a free public circulating library.

History: Add. 1903, Act 19, Eff. Sept. 17, 1903;—CL 1915, 3447;—CL 1929, 8075;—CL 1948, 397.217.

TRANSFER OF CITY PUBLIC LIBRARIES

Act 181 of 1973

AN ACT to provide for the transfer of certain public libraries to the governing body of a city; to provide for continued operation and maintenance of the libraries; to provide for the conveyances; and to provide for the succession to title and interest of libraries.

History: 1973, Act 181, Imd. Eff. Dec. 28, 1973.

The People of the State of Michigan enact:

397.231 Effect of repealing local act governing city public library.

Sec. 1. If the local act governing a city public library is repealed, the governing body of the city shall succeed to all title and interest in the real and personal property of the library.

History: 1973, Act 181, Imd. Eff. Dec. 28, 1973.

397.232 Operation and maintenance of library by governing body of city.

Sec. 2. The governing body of the city may continue to operate and maintain the library in accordance with appropriate statutes of this state or the charter of that governmental unit.

History: 1973, Act 181, Imd. Eff. Dec. 28, 1973.

397.233 Conveyance of library property to other governing body.

Sec. 3. The governing body of the city may convey the property of such library to the governing body of another governmental unit for use of the property for library purposes.

History: 1973, Act 181, Imd. Eff. Dec. 28, 1973.

PUBLIC LIBRARIES; BONDS

Act 305 of 1919

AN ACT to authorize the issue of bonds; to provide sites for and for the erection thereon of public libraries and for additions to and improvements of such sites and the buildings thereon, whether now existing or hereafter acquired, in cities, villages and school districts where free public libraries have or may hereafter be established.

History: 1919, Act 305, Eff. Aug. 14, 1919.

The People of the State of Michigan enact:

397.241 Sites and buildings provided; improvement of existing property; bond issue, limitation.

Sec. 1. The legislative body of any city, village or school district where free public libraries have been, or may hereafter be established, is hereby authorized upon the application of the local library board, or commission or body duly authorized by law to maintain free public libraries in such city, village or school district to borrow a sum of money upon the faith and credit of such city, village or school district not exceeding 1/4 of 1 per centum of the assessed valuation of such city, village or school district to provide sites for, and for the erection thereon, of free public library buildings and for additions to and improvements of such sites and the buildings thereon now existing or hereafter acquired and to issue the bond or bonds of such city, village or school district therefor: Provided, That wherever library bonds have heretofore been issued or authorized said bonds shall be included in the limitation of 1/4 of 1 per centum of the assessed valuation: And provided further, That such bonds hereafter issued shall be in addition to all other indebtedness which the city, village or school district is or may be authorized to incur for purposes other than library purposes.

History: 1919, Act 305, Eff. Aug. 14, 1919;—CL 1929, 8076;—CL 1948, 397.241.

397.242 Bonds; form; dating and numbering; amount; interest; payment; execution; negotiation.

Sec. 2. The bonds shall be denominated "public library bonds of the city, village, or school district number of .....," shall be regularly dated and numbered in the order of their issue, shall be for sums of not less than $100.00 each, shall bear interest at a rate not exceeding the maximum rate permitted by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws, shall be payable within such time from the date of issue and shall be executed in such manner, as the local legislative body of the city, village, or school district may determine. The bonds shall not be negotiated at less than their par value.

History: 1919, Act 305, Eff. Aug. 14, 1919;—CL 1929, 8077;—CL 1948, 397.242;—Am. 1976, Act 23, Imd. Eff. Feb. 27, 1976.

397.243 Bonds; approval of issue.

Sec. 3. No bonds shall be issued under this act unless such issue has been approved by both the local legislative body and by that body to whom is entrusted the management of the local library system and upon such concurrent approval the legislative body of said city, village or school district shall thereupon proceed to issue and negotiate the sale of said bonds.

History: 1919, Act 305, Eff. Aug. 14, 1919;—CL 1929, 8078;—CL 1948, 397.243.

397.244 Bonds; sinking fund for redemption; receipts from sale, disposition.

Sec. 4. The local legislative body of such city, village or school district shall provide a sinking fund for the redemption of the bonds issued under the provisions of this act to which end it shall be its duty to raise by taxation, each year, upon the property assessed for city, village or school district purposes, such sum as shall be sufficient to make said sinking fund adequate at the maturity of the bonds, to pay the same and the moneys so raised shall be used for no other purpose. The principal realized from the sale of said bonds shall be deposited with the treasurer of said city, village or school district and credited to a public library fund for the purposes hereinbefore mentioned and shall be used for said purposes only. The premium and accrued interest of said bonds shall be credited to the sinking fund of said city, village or school district.

History: 1919, Act 305, Eff. Aug. 14, 1919;—CL 1929, 8079;—CL 1948, 397.244.

397.245 Bonds; budget items for sinking fund and interest on bonds.

Sec. 5. It shall be the duty of the local board entrusted with the management of the local library system, to include in its budget each year, an item of the amount necessary to be raised each year for the sinking fund and an item for the amount necessary to be raised each year for the interest on said bonds and said items shall be allowed by the local body or officer whose duty it is to determine the amount to be raised by taxation for said city, village or school district. Said items shall be in addition to the amount which may be annually raised by taxation for all other purposes.

History: 1919, Act 305, Eff. Aug. 14, 1919;—CL 1929, 8080;—CL 1948, 397.245.

397.246 Cities and villages; borrowing power.

Sec. 6. Notwithstanding the provisions of this act, any city or village may borrow money and issue bonds for library buildings, additions thereto and/or sites therefor, in accordance with, and to the full extent authorized by its charter.

History: Add. 1952, Act 126, Imd. Eff. Apr. 17, 1952.

LIBRARIES UNDER BOARDS OF EDUCATION

Act 261 of 1913

AN ACT to authorize boards of education to provide for the maintenance of free public libraries existing under the control of boards of education of the cities; to authorize and empower said boards of education to raise or borrow money and issue bonds in sufficient sum to purchase property or site, erect and maintain buildings for use as a free public library and other educational purposes.

History: 1913, Act 261, Eff. Aug. 14, 1913.

The People of the State of Michigan enact:

397.261 Boards of education library; annual expense estimates.

Sec. 1. Boards of education in cities where free public libraries are under control of such boards of education by reason of existing charters or otherwise, from and after the passage of this act are hereby authorized and empowered to include in their annual estimate a sum or sums sufficient to properly care for and defray the expense of maintenance and to purchase new books required for such libraries.

History: 1913, Act 261, Eff. Aug. 14, 1913;—CL 1915, 5836;—CL 1929, 8081;—CL 1948, 397.261.

397.262 Boards of education; bonds, issuance, maturity, approval by electors.

Sec. 2. Boards of education in cities having the control of free public libraries by reason of existing charters or otherwise are hereby authorized and empowered to raise money, either by including the amount in their annual estimates, or to borrow same on the faith and credit of said school district, and to issue certificates or bonds to secure the payment of the sums borrowed; sufficient to purchase property for a site and to provide the money necessary to erect, equip and maintain buildings for a free public library and other educational uses: Provided, That when any bond issue shall be provided for under the terms of this act such bonds shall not be issued for a period of more than 10 years. No bonds provided for in this act shall be issued until issuance of same shall have been submitted to the electors of the district affected and approved by a majority of the electors voting thereon.

History: 1913, Act 261, Eff. Aug. 14, 1913;—CL 1915, 5837;—CL 1929, 8082;—CL 1948, 397.262.

Uncompiled section: Section 3 of this act was not compiled.

DISTRICT LIBRARY FINANCING ACT

Act 265 of 1988

AN ACT to authorize district libraries to acquire, construct, or furnish real or personal property for use for library purposes; to authorize district libraries to borrow money and issue bonds and notes and refunding bonds and notes for those acquisitions; and to authorize district libraries to levy a tax for, and to pledge their full faith and credit to, the payment of contracts, bonds, and notes.

History: 1988, Act 265, Imd. Eff. July 15, 1988.

The People of the State of Michigan enact:

397.281 Short title.

Sec. 1. This act shall be known and may be cited as the "district library financing act".

History: 1988, Act 265, Imd. Eff. July 15, 1988.

Cited in other sections: Section 397.281 et seq. is cited in §397.182

397.282 Definitions.

Sec. 2. As used in this act:

(a) "Board" means that term as defined in section 2 of the district library establishment act.

(b) "District" means that term as defined in section 2 of the district library establishment act.

(c) "District library" means a library established pursuant to the district library establishment act or a library considered to be established pursuant to the district library establishment act under section 6 of that act.

(d) "Legislative body" means, if the municipality is a school district, the school board.

(e) "Municipality" means that term as defined in section 2 of the district library establishment act.

(f) "Participating" means that term as defined in section 2 of the district library establishment act.

History: 1988, Act 265, Imd. Eff. July 15, 1988;—Am. 1989, Act 25, Imd. Eff. May 22, 1989.

397.283 Powers of board.

Sec. 3. A board may do 1 or more of the following:

(a) Acquire real or personal property for use for library purposes by purchase, land contract, installment purchase contract, lease with or without option to purchase, or title retaining contract.

(b) Borrow money and issue its negotiable bonds or notes to finance the acquisition, construction, and furnishing of buildings or portions of buildings for use for library purposes, the acquisition of the necessary sites for library buildings, or the acquisition and installation of equipment necessary for the operation of the library buildings.

(c) Submit to the electors of the district a question proposing the issuance of bonds for the purposes described in this act.

(d) Borrow money and issue its negotiable bonds and notes for the purpose of refunding outstanding debt obligations of the district issued for the purposes described in this act.

History: 1988, Act 265, Imd. Eff. July 15, 1988.

397.284 Limitation on borrowing money or issuing bonds or notes; conditions to issuance of general obligation unlimited tax bonds; ballot question; refunding bonds.

Sec. 4. (1) A district library shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the district library, exceeds 5% of the state equalized valuation of the taxable property within the district.

(2) A district library shall not issue general obligation unlimited tax bonds unless all of the following conditions are met:

(a) The board adopts a resolution submitting the question of issuing general obligation unlimited tax bonds or notes to the electors of the district.

(b) The question of issuing general obligation unlimited tax bonds or notes is certified by the board and the election is conducted in the manner provided in sections 14 to 23 of the district library establishment act for an election for a districtwide tax.

(c) A majority of the qualified electors of the district voting on the question approve the issuing of the general obligation unlimited tax bonds.

(3) The question of issuing general obligation unlimited tax bonds pursuant to subsection (2) shall be submitted by ballot in substantially the following form:

"Shall the district library, formed by __________, county[ies] of __________, State of Michigan, borrow the sum of not to exceed __________ dollars ($__________) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of __________? Yes [ ] No [ ]"

(4) Refunding bonds or the refunding part of a bond issue shall not be considered to be within the 5% limitation of subsection (1), but shall be considered to be authorized in addition to the 5% limitation.

History: 1988, Act 265, Imd. Eff. July 15, 1988;—Am. 1989, Act 25, Imd. Eff. May 22, 1989.

397.285 Issuance of limited tax bonds or notes by resolution; borrowing money and issuing negotiable bonds and notes by resolution.

Sec. 5. (1) Except as otherwise provided in section 4, a district library may issue limited tax bonds or notes by resolution of the board, without submitting the question to the electors of the district.

(2) A district library may borrow money and issue its negotiable bonds and notes for the purpose of refunding outstanding debt obligations of the district by resolution of the board, without submitting the question to the electors of the district.

History: 1988, Act 265, Imd. Eff. July 15, 1988;—Am. 1989, Act 25, Imd. Eff. May 22, 1989.

397.286 Repealed. 1989, Act 25, Imd. Eff. May 22, 1989.

Compiler's note: The repealed section pertained to borrowing money, issuing bonds or notes, and condition to establishment of district library.

397.287 Bonds as debt of district library; withdrawal of participating municipality from district library.

Sec. 7. Bonds issued pursuant to this act are debt of the district library and not of the participating municipalities. If a participating municipality withdraws from a district library, taxes imposed for payment of bonds approved as provided in this act before the adoption of the resolution to withdraw shall continue to be levied within the district as if the municipality did not withdraw from the district library until the principal of and interest on those bonds are paid in full.

History: 1988, Act 265, Imd. Eff. July 15, 1988;—Am. 1989, Act 25, Imd. Eff. May 22, 1989.

397.288 Authorization and levy of taxes to pay principal of and interest on bonds.

Sec. 8. If a majority of the qualified electors of a district voting on the question of issuing bonds approves the issuance, or if bonds are otherwise issued pursuant to section 5, the board, by resolution, shall authorize and levy the taxes necessary to pay the principal of and interest on the bonds. The taxes shall be levied and collected with the county taxes. If, pursuant to section 5, the bonds are issued without submission of the question of the bond issue to the electors, the board shall not authorize or levy a tax that exceeds the tax levy authorized by a vote of the qualified electors of the district as provided in sections 13 to 23 of the district library establishment act.

History: 1988, Act 265, Imd. Eff. July 15, 1988;—Am. 1989, Act 25, Imd. Eff. May 22, 1989.

397.289 Bonds subject to municipal finance act.

Sec. 9. Bonds issued pursuant to this act are subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws.

History: 1988, Act 265, Imd. Eff. July 15, 1988.

397.290 Submission of proposal to issue bonds; limitation.

Sec. 10. A board shall not submit a proposal to issue bonds under this act more than 1 time during a calendar year.

History: 1988, Act 265, Imd. Eff. July 15, 1988;—Am. 1989, Act 25, Imd. Eff. May 22, 1989.

COUNTY LIBRARIES

Act 138 of 1917

AN ACT to authorize the creation of county libraries; to authorize the contracting by the board of supervisors of any county for library service; to authorize the contracting by the board of supervisors of any county or the board of trustees of any regional library with any other municipality for the furnishing of such service; and to provide for a tax for the purposes of this act.

History: 1917, Act 138, Eff. Aug. 10, 1917;—Am. 1931, Act 249, Eff. Sept. 18, 1931.

The People of the State of Michigan enact:

397.301 County libraries; establishment, contracts for service, tax.

Sec. 1. The board of supervisors of any county shall have the power to establish a public library free for the use of the inhabitants of such county and they may contract for the use, for such purposes, of a public library already established within the county, with the body having control of such library, to furnish library service to the people of the county under such terms and conditions as may be stated in such contract. The amount agreed to be paid for such service under such contract and the amount which the board may appropriate for the purpose of establishing and maintaining a public library shall be a charge upon the county and the board may annually levy a tax on the taxable property of the county, to be levied and collected in like manner as other taxes in said county and paid to the county treasurer of said county and to be known as the library fund.

History: 1917, Act 138, Eff. Aug. 10, 1917;—CL 1929, 8084;—Am. 1931, Act 249, Eff. Sept. 18, 1931;—Am. 1943, Act 206, Imd. Eff. Apr. 17, 1943;—CL 1948, 397.301;—Am. 1956, Act 150, Eff. Aug. 11, 1956.

Cited in other sections: Section 397.301 et seq. is cited in §§211.43, 397.32, 397.215, 397.301, and 418.151.

397.302 Library board; purpose; appointment and terms of members; expansion of board; board as body corporate; powers; cost of service.

Sec. 2. (1) For the purpose of administering the county library fund, there shall be a library board consisting of 5 members, to be appointed by the county board of commissioners, for terms of 5 years each, except that the first members shall be appointed for 1, 2, 3, 4, and 5 years. In a county with a population over 1,000,000, the superintendent of the intermediate school district serving the county shall be 1 of the members of the library board during his or her term of office.

(2) By resolution and only on the request of the county library board, the county board of commissioners in a county with a population of over 1,000,000 may expand the library board to 7 members. If the superintendent of the intermediate school district is serving on the library board when the board is expanded, the 2 additional members shall be appointed to terms which correspond to the terms of the member replaced by the superintendent.

(3) The board shall be a body corporate and shall be authorized to contract for the leasing, construction, or maintenance of buildings or quarters, including the acquisition of sites, to house the county library service, and to do any other thing necessary for the conducting of the county library service, the cost of the county library service to be a charge against the county library fund.

History: 1917, Act 138, Eff. Aug. 10, 1917;—CL 1929, 8085;—Am. 1937, Act 113, Imd. Eff. June 24, 1937;—Am. 1943, Act 206, Imd. Eff. Apr. 17, 1943;—CL 1948, 397.302;—Am. 1966, Act 67, Imd. Eff. June 9, 1966;—Am. 1974, Act 110, Imd. Eff. May 21, 1974;—Am. 1985, Act 191, Imd. Eff. Dec. 20, 1985.

397.303 Contract for use of existing library; county library fund.

Sec. 3. In case a contract shall be made with an existing library, the county library fund shall be administered by the county library board and such contract, and all services provided for thereunder, shall be supervised by the county library board; and all employees engaged in the execution and carrying out of such contract shall be county employees, except those furnished and employed by the library rendering such services in accordance with or fulfillment of such contract.

History: 1917, Act 138, Eff. Aug. 10, 1917;—CL 1929, 8086;—Am. 1937, Act 113, Imd. Eff. June 24, 1937;—Am. 1943, Act 206, Imd. Eff. Apr. 17, 1943;—CL 1948, 397.303.

397.304 County library fund; disbursement.

Sec. 4. Said fund shall be paid by the county treasurer upon the order or warrants of said library board.

History: 1917, Act 138, Eff. Aug. 10, 1917;—CL 1929, 8087;—Am. 1943, Act 206, Imd. Eff. Apr. 17, 1943;—CL 1948, 397.304.

397.305 Contract for service to municipality; tax; effect of establishment of municipal library.

Sec. 5. Any county possessing a county library or any board of trustees of a regional library may enter into a contract with 1 or more counties, townships, villages, cities and/or other municipalities to secure to the residents of such municipality such library service as may be agreed upon, and the money received for the furnishing of such service shall be deposited to the credit of the library fund. Any municipality contracting for such library service shall have the power to levy a library tax in the same manner and amount as authorized in section 1 hereof for the purpose of paying therefor. Any municipality contracting for such library service may at any time establish a public library free for the use of its inhabitants, whereupon its contract for said service may be continued or terminated on such terms as may be agreed upon between the parties thereto.

History: Add. 1931, Act 249, Eff. Sept. 18, 1931;—CL 1948, 397.305.

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TOWNSHIP AND VILLAGE LIBRARIES

Act 5 of 1917

AN ACT authorizing organized townships and incorporated villages in the state of Michigan to borrow money and to issue bonds therefor for the purpose of establishing free public libraries, purchasing sites and constructing buildings thereon.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917.

The People of the State of Michigan enact:

397.321 Townships and villages; issuance of library bonds, approval by electors.

Sec. 1. The township board of any organized township and the village council, or board of trustees, of any incorporated village in the state of Michigan are hereby authorized and empowered, upon an application signed by not less than 25 qualified electors of such township or incorporated village being first filed with the said township board, village council, or board of trustees, as the case may be, to borrow a sum of money, not exceeding 1 per cent of the assessed valuation of such township, or incorporated village, on the faith and credit of such township, or incorporated village, and to issue the bond, or bonds of such township, or incorporated village, therefor; the money so borrowed to be used for the purpose of establishing a free public library, for purchasing a site for the same or constructing buildings thereon: Provided, That a majority of the voters of such township, or incorporated village, voting thereon at a township meeting, a general election, or at a special election called by the township board, or at a general or special election called by the village council, or board of trustees, for that purpose, shall vote in favor thereof.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917;—CL 1929, 8088;—CL 1948, 397.321.

397.322 Referendum; notice.

Sec. 2. The question of issuing the bonds, provided for in section 1 of this act, shall be submitted to the legal voters of such township, or incorporated village, by the township board, the village council or board of trustees, within 30 days after the filing of the application mentioned in section 1, giving due notice thereof by causing the date, place of voting and object of said election to be stated in written or printed notices to be posted in 5 public places in such township, or incorporated village, at least 10 days before the time fixed by said board for such election, and by publishing the same in at least 1 newspaper published in said township, or incorporated village, or if none be published in said township, or incorporated village, then in some newspaper published in the same county, which is circulated in such township or incorporated village, at least 2 weeks before the time of such election. Such notice shall state the amount of money proposed to be raised by such bonding, and the purpose or purposes to which it shall be applied.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917;—CL 1929, 8089;—CL 1948, 397.322.

397.323 Referendum; form of ballot; election process.

Sec. 3. The vote upon such proposition shall be by printed ballot, and such ballots shall be in the following form:

"For the issuing of bonds to (Purpose) Yes [ ]."

"For the issuing of bonds to (Purpose) No [ ]."

The election shall be conducted and the votes canvassed in all respects, as in other township or village elections.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917;—CL 1929, 8090;—CL 1948, 397.323.

397.324 Library bonds; term, signature, negotiation; tax.

Sec. 4. If at such election a majority of such qualified electors present thereat and voting upon said proposition shall vote in favor of such loan, such bonds shall be issued by the township board of the township or the village council or board of trustees of the village, as the case may be, in denominations not exceeding 1,000 dollars each, at a rate of interest not exceeding 5 per centum per annum, and for a period not exceeding 25 years, as the said township board, or the said common council, or board of trustees, by resolution, shall direct. Said bond, or bonds, issued by a township board, shall be signed by the members of the said township board and countersigned by the township treasurer, and when issued by a village council shall be signed by the president and clerk of said village and countersigned by the village treasurer. Said bond, or bonds, shall be negotiated by and under the direction of said township board, or common council, or board of trustees of incorporated village, to raise in each year by tax upon the taxable property of such township, or incorporated village, such sums of money as shall be sufficient to pay the amount of said bonds and the interest thereon, as the same shall become due.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917;—CL 1929, 8091;—CL 1948, 397.324.

397.325 Library bonds; negotiation at less than par prohibited.

Sec. 5. No bonds issued under and by virtue of this act shall be used or negotiated at less than their par value.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917;—CL 1929, 8092;—CL 1948, 397.325.

397.326 Declaration of necessity.

Sec. 6. It is hereby declared that this act is immediately necessary for the public health, peace and safety.

History: 1917, Act 5, Imd. Eff. Mar. 9, 1917;—CL 1929, 8093;—CL 1948, 397.326.

CONSOLIDATION OF TOWNSHIP LIBRARIES

Act 165 of 1927

AN ACT to authorize the consolidation of township libraries in adjoining townships in certain cases, and to provide for their joint maintenance.

History: 1927, Act 165, Eff. Sept. 5, 1927.

The People of the State of Michigan enact:

397.351 Consolidation of township libraries; procedure.

Sec. 1. It shall hereafter be lawful for the township boards of adjoining townships in the same county, by joint action of the respective township boards of such townships, by proceeding as hereinafter provided, to consolidate the libraries in each township into 1 library, and to designate the site thereof.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8094;—CL 1948, 397.351.

397.352 Referendum; petition.

Sec. 2. When the township board of each township having such libraries shall be presented with a petition, signed by not less than 25 per cent of the resident freeholders of each of the respective townships, each such township board shall forthwith adopt a resolution submitting the question of consolidation of the libraries of the 2 townships to the qualified electors of each township at any regular election or special election duly called for that purpose.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8095;—CL 1948, 397.352.

397.353 Referendum; form of ballot; conduct of election.

Sec. 3. The election shall be by ballot in substantially the following form:

"Shall the township libraries of .... and .... townships be consolidated?

Yes [ ]

No [ ]."

The election shall be conducted in every respect the same as other special or general elections are conducted, and the results canvassed and certified in like manner.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8096;—CL 1948, 397.353.

397.354 Referendum; meeting to pass joint resolution; consolidation.

Sec. 4. If the proposition shall be carried by a majority of those voting at the election, in each township, and the respective election boards shall so certify, the respective township boards shall meet together in the township casting the largest vote at such election and shall pass a joint resolution, which shall be recorded in the minutes of the clerk of each board, canvassing the returns of the elections, and shall formally consolidate the township libraries of the 2 townships.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8097;—CL 1948, 397.354.

397.355 Site of library; designation.

Sec. 5. Such resolution shall designate the site of the library, and if not able to agree by a majority vote of the board members present and voting, the county commissioner of schools shall choose a site properly located and most advantageous to the townships.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8098;—CL 1948, 397.355.

397.356 Maintenance expenses; apportionment.

Sec. 6. The expense of maintenance for the ensuing year shall be estimated, and the expense apportioned between the 2 townships in proportion to their respective assessed valuations for the preceding year, and such tax certified by the clerk of each board to its respective supervisor.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8099;—CL 1948, 397.356.

397.357 Control of library.

Sec. 7. Said library when so consolidated shall be under the joint control of the township boards, and any matter upon which they can not agree shall be decided by the county commissioner of schools. Not more than 2 joint meetings per year shall be held.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8100;—CL 1948, 397.357.

397.358 Free public library; formation.

Sec. 8. After consolidation, the library may be formed into a free public library, with provisional board of directors in pursuance of the statute in such case made and provided, upon proper procedure for that purpose, jointly taken by the township boards of the townships consolidating.

History: 1927, Act 165, Eff. Sept. 5, 1927;—CL 1929, 8101;—CL 1948, 397.358.

PRIVATELY OWNED PUBLIC LIBRARIES

Act 213 of 1925

AN ACT to provide for the maintenance and operation of libraries for public use, owned or controlled by associations or individuals.

History: 1925, Act 213, Imd. Eff. May 6, 1925.

The People of the State of Michigan enact:

397.371 Privately owned libraries; public support, limitation, conditions.

Sec. 1. Any township, city or village within this state, having within its limits a library that had been open to the public upon the payment of dues, may appropriate not to exceed 1/2 of 1 mill on its assessed valuation for the support of such library, and such sum or sums shall be raised by taxation in the ordinary way: Provided, That any library so receiving support from any municipality shall be kept open for the convenience of the public not less than the afternoons and evenings of 3 days of each week, and the books therein shall be for the free use of the public under such reasonable restrictions as such library shall prescribe.

History: 1925, Act 213, Imd. Eff. May 6, 1925;—CL 1929, 8102;—CL 1948, 397.371.

PUBLIC LIBRARY; GIFTS AND DONATIONS

Act 136 of 1921

AN ACT to authorize and facilitate the acquisition and disposal of public library property by public corporations empowered to maintain public libraries.

History: 1921, Act 136, Eff. Aug. 18, 1921.

The People of the State of Michigan enact:

397.381 Donations; acceptance, use.

Sec. 1. Any board of education, library commission or other public corporation empowered to maintain a public library may receive and accept gifts and donations of property, real or personal, for the purpose of such library and shall hold, use and apply the property so received for the purposes set forth in the instrument of gift and in accordance with the provisions of such instrument and subject to the conditions and limitations, if any, therein expressed.

History: 1921, Act 136, Eff. Aug. 18, 1921;—CL 1929, 8103;—CL 1948, 397.381.

397.382 Donations; disposition.

Sec. 2. Whenever any property, real or personal, now or hereafter held and used for the purpose of a public library by any board of education, library commission or other public corporation shall, in the judgment of such corporation, be no longer needed for such purpose, such property may be sold and disposed of by such corporation unless such sale and disposal be inconsistent with the terms and conditions upon which such property was acquired, at such price and upon such terms and conditions as said corporation may deem proper, and the proceeds thereof shall by said corporation be used and applied for the purpose of such library.

History: 1921, Act 136, Eff. Aug. 18, 1921;—CL 1929, 8104;—CL 1948, 397.382.

LIBRARY COMMISSIONS

Act 26 of 1921 (1st Ex. Sess.)

AN ACT relative to library commissions in cities having a population of more than 250,000.

History: 1921, 1st Ex. Sess., Act 26, Eff. Sept. 19, 1921.

The People of the State of Michigan enact:

397.401 Library commission; jurisdiction.

Sec. 1. The territory over which the library commission in any city having a population of more than 250,000 shall conduct the activities to it by law confided, and to which shall apply charges and obligations heretofore or hereafter imposed for the purposes of any said commission, shall be co-extensive with the boundaries of any said city and shall automatically change by and with any change in said boundaries.

History: 1921, 1st Ex. Sess., Act 26, Eff. Sept. 19, 1921;—CL 1929, 8105;—CL 1948, 397.401.

397.402 Library commission; annual budget.

Sec. 2. The annual budget of any said commission shall be prepared in manner and time provided by the charter of any said city concerning the budget thereof and shall be submitted to and passed upon by the officers and boards of any said city as are the items in the budget thereof.

History: 1921, 1st Ex. Sess., Act 26, Eff. Sept. 19, 1921;—CL 1929, 8106;—CL 1948, 397.402.

397.403 Library commission; fiscal year.

Sec. 3. The fiscal year of any said commission shall be identical with that of any said city.

History: 1921, 1st Ex. Sess., Act 26, Eff. Sept. 19, 1921;—CL 1929, 8107;—CL 1948, 397.403.

397.404 Effect of local act; continuation.

Sec. 4. The relation of officers or agencies of any said city to the affairs of any said commission growing out of any special or local act of the state legislature shall continue in officers or agencies of any said city on revision or amendment of said special or local act by the electors of any said city.

History: 1921, 1st Ex. Sess., Act 26, Eff. Sept. 19, 1921;—CL 1929, 8108;—CL 1948, 397.404.

397.405 Payrolls, bills, accounts and claims; audit and approval; certificate; allowance, payment.

Sec. 5. All payrolls, bills, accounts and claims of every character against the library commission after having been duly audited and approved by the commission, the certificate of which audit and approval shall be endorsed thereon by the president or secretary of the commission or some member or other representative of the commission acting under authority conferred by the commission generally or specially, shall be transmitted to the city controller, who shall endorse thereon his approval or disapproval. When so endorsed with approval the controller shall draw his warrant or warrants on the city treasurer in payment therefor. No bill, account or claim shall be audited or approved by the commission unless the same shall be accompanied by a certificate of a representative of the commission who acted for the commission in making the purchase or contract or in taking the delivery or performance that he verily believes the services or property therein charged have been actually performed or delivered for the commission, that the sum or sums charged therefor are reasonable and just, and that to the best of his knowledge and belief no setoff exists, nor payment has been made on account thereof except such as are included or referred to in such account. A similar certificate shall be required upon all payrolls, the certificate to be made by the person under whose supervision the services charged have been rendered. The provisions hereof shall be in addition to any provisions covering the same matters in any general or local act or charter adopted pursuant to Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948.

History: Add. 1947, Act 185, Eff. Oct. 11, 1947;—CL 1948, 397.405;—Am. 1967, Act 220, Eff. Nov. 2, 1967.

FREE PUBLIC LIBRARIES

Act 115 of 1899

AN ACT to create a state board of library commissioners, to promote the establishment and efficiency of free public libraries, and to provide an appropriation therefor.

History: 1899, Act 115, Imd. Eff. June 1, 1899.

The People of the State of Michigan enact:

397.453 Free libraries; annual report to state board of library commissioners.

Sec. 3. It shall be the duty of all free libraries organized under the laws of the state, whether general or special, to make an annual report to the board of library commissioners, which report shall conform as near as may be reasonable and convenient, as to time and form such rules as the board may prescribe.

History: 1899, Act 115, Imd. Eff. June 1, 1899;—CL 1915, 1152;—CL 1929, 8054;—CL 1948, 397.453.

Uncompiled sections: Sections 1, 2, 4, and 5 of this act were not compiled.

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PUBLIC LIBRARIES

Act 92 of 1952

AN ACT to provide for cooperation and coordination in the maintenance and operation of libraries open for use by the public generally; to authorize certain contracts or arrangements for extension of library services; and to authorize the legislative body of political subdivisions to contract and pay therefor.

History: 1952, Act 92, Eff. Sept. 18, 1952;—Am. 1953, Act 152, Imd. Eff. June 2, 1953.

The People of the State of Michigan enact:

397.471 Public libraries; maintenance and operation, contracts; cooperation to avoid duplication.

Sec. 1. The officers, agency or other authority charged by law with the maintenance and operation of any library for general public use may enter into and perform contracts or arrangements with the officers, agency or other authority likewise charged in respect of any other such library for cooperation and coordination in the maintenance and operation of the libraries to avoid unnecessary duplication and at the same time promote the widest public use of books, manuscripts and other materials and facilities and bring about the supplementing of the 1 library by the other, which may include the accumulating of books, manuscripts and other materials and facilities, to whichever library belonging, of the same general nature or pertaining to the same general subject in such library as will best facilitate access thereto and promote the best use thereof by the members of the public desiring so to do.

The officers, agencies or other authorities, jointly or severally, may enter into contracts or arrangements to make available to political subdivisions of the state, including school districts, otherwise authorized by law to maintain libraries, such library services and facilities as will promote the widest public use of books and avoid unnecessary duplication and expense.

History: 1952, Act 92, Eff. Sept. 18, 1952;—Am. 1953, Act 152, Imd. Eff. June 2, 1953;—Am. 1962, Act 59, Eff. Mar. 28, 1963.

397.472 Public libraries; contracts and arrangements; rights and privileges of residents; expenditures; political subdivisions.

Sec. 2. Such contracts and arrangements may be made between and among any number of such libraries. Any library supported in whole or in part by taxes or other public funds or competent in law to be so supported shall be eligible to be included in any such contract or arrangement by whatever authority such library may be maintained and operated. Residents of the territory subject to taxation for support of any library entering into any such contracts or arrangements shall have such rights and privileges in the use of the respective libraries entering into like contracts and arrangements as shall be provided therein. If the expenditures generally of such library shall by the law under which maintained and operated be subject to being budgeted and approved, any expenditure by such library required for carrying out any such contract or arrangement shall be likewise so subject.

The provisions hereof shall be broadly and liberally construed and applied and any provision in any contract or arrangement reasonably tending to effectuate in any part the intents and purposes hereof shall be deemed within the authority hereby granted. Any political subdivision of the state, including school districts, now or hereafter authorized by law to establish or maintain libraries or library services, may enter into contracts or arrangements for library services and facilities provided in section 1 and provide for the payments of obligations arising from such contracts or arrangements by resolution of the legislative body of the political subdivision or school district or in any other manner provided by law.

History: 1952, Act 92, Eff. Sept. 18, 1952;—Am. 1953, Act 152, Imd. Eff. June 2, 1953;—Am. 1962, Act 59, Eff. Mar. 28, 1963.

STATE LIBRARY FOR BLIND

Act 127 of 1959

AN ACT to transfer jurisdiction and control of the state library for the blind to the state board for libraries.

History: 1959, Act 127, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

397.491 State library for blind; transfer to state board for libraries.

Sec. 1. The state library for the blind, located at the employment institution for the blind at Saginaw, is hereby placed under the jurisdiction of the state board for libraries.

History: 1959, Act 127, Eff. Mar. 19, 1960.

397.492 State library for blind; administration, rules and regulation.

Sec. 2. The state board for libraries shall have full power to administer this library, determine standards of operation, and make rules and regulations that will best serve both Braille and talking book readers.

History: 1959, Act 127, Eff. Mar. 19, 1960.

397.493 State library for blind; appropriation.

Sec. 3. The state board for libraries shall administer the appropriation for said library.

History: 1959, Act 127, Eff. Mar. 19, 1960.

397.494 State library for blind; personnel, qualifications.

Sec. 4. The state board for libraries shall have full power to determine the qualifications of the personnel in said library and fill all vacancies, subject to the state civil service regulations.

History: 1959, Act 127, Eff. Mar. 19, 1960.

397.495 State library for blind; transfer of powers and duties to state board for libraries.

Sec. 5. Any and all powers and duties vested by any law of this state in the state library for the blind are hereby transferred and vested in the state board for libraries.

History: 1959, Act 127, Eff. Mar. 19, 1960.

STATE AID TO PUBLIC LIBRARIES ACT

Act 89 of 1977

AN ACT to provide for the establishment of cooperative libraries; to prescribe the powers and duties of the legislative council; to provide state aid for public libraries participating in cooperative libraries; to prescribe the powers and duties of cooperative library boards; to provide an appropriation; and to repeal certain acts and parts of acts.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977;—Am. 1982, Act 541, Eff. Mar. 30, 1983.

The People of the State of Michigan enact:

397.551 Short title.

Sec. 1. This act shall be known and may be cited as the "state aid to public libraries act".

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.552 Definitions.

Sec. 2. As used in this act:

(a) "Local board" means the board of trustees or directors that has, as its primary purpose, the supervision of a local public library, or that board contracting for library service, or if such a board does not exist, the legislative body of the local government which maintains the public library.

(b) "Local support" means funds from tax sources, gifts, endowments, penal fines, or other funds received from local sources, excluding state and federal aid as stated in this act.

(c) "Public library" means a library which is lawfully established for free public purposes by 1 or more counties, cities, townships, villages, school districts, or other local governments or a combination thereof, or by a public or local act, the entire interests of which belong to the general public. It does not include a special library such as a professional, technical, or school library.

(d) "Cooperative board" means the governing board of the cooperative library.

(e) "Cooperative library" means the library or service center designated by the cooperative board to execute services established by the cooperative plan and provided to libraries participating in the cooperative.

(f) "State board" means the legislative council.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977;—Am. 1982, Act 541, Eff. Mar. 30, 1983.

Cited in other sections: Section 397.552 is cited in §§206.260 and 208.38.

397.553 Cooperative library boards; establishment; number.

Sec. 3. Cooperative library boards representing local public libraries shall be established in accordance with this act and approved by the state board. The number of cooperative boards shall be determined by the state board in accordance with section 6.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.554 Preliminary cooperative plan for library services; contents; development.

Sec. 4. A preliminary cooperative plan for library services which sets forth a statement describing the specific services that will be rendered to those libraries participating in a cooperative library, the means and agencies by which the services will be rendered without duplication of existing resources and expertise, and the cooperative board that will receive funds and execute duties shall be developed by participating local public library boards.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.555 Eligibility for membership in cooperative library.

Sec. 5. To be eligible for membership in a cooperative library, a local library shall:

(a) Maintain a minimum local support of 3/10 of a mill on state equalized valuation in the fiscal year before October 1 of the year before distribution.

(b) Participate in the development of cooperative library plans.

(c) Loan materials to other libraries participating in the cooperative library.

(d) Maintain an open door policy to the residents of the state, as provided by section 9 of article 8 of the state constitution of 1963.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.556 Areas included in cooperative library.

Sec. 6. A cooperative library shall include those areas consisting of:

(a) Two or more counties with a total population of at least 100,000.

(b) One county plus portions of other counties with a population of at least 100,000.

(c) One county or portion thereof with a population of at least 400,000.

(d) Portions of 2 or more counties with a population of at least 350,000.

(e) Combinations of counties or portions of counties serving a population of at least 50,000, if the region served has a population of 35 or less per square mile.

(f) The area covered by a cooperative library shall recognize the geosocioeconomic conditions within that area and regions established for governmental purposes throughout the state. A local board placed in a cooperative library shall have the option to petition the state board to be placed in a different cooperative library or to join with other local boards to form a cooperative library under this act. A local board serving an area adjoining more than 1 cooperative library shall have the option to determine the cooperative library in which it shall participate.

(g) The system board of an existing library system serving over 1,000,000 population may petition the state board for designation as a cooperative board and the state board shall designate that system board, as already constituted, as the cooperative board. If a cooperative board is a county library board, the cooperative plan shall provide for expanding the cooperative board to represent proportionately the population served in any other county or counties within the area of the cooperative library. This expanded cooperative board shall have authority over those matters affecting the operation of the cooperative library except for the property, personnel, and governmental relationships of the county whose board was designated as the cooperative board, which matters shall continue to be the responsibility of that county library board. The state board shall include in the cooperative library serving over 1,000,000 population the communities presently served by the existing system and all other communities not in another cooperative library within counties represented by members on the expanded cooperative board other than the designated system board members.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.557 Cooperative library board as representative of participating libraries; selection of members; existing systems.

Sec. 7. A cooperative library board shall be representative of the participating libraries except as specifically provided in section 6. It shall consist of 9 members with the method of selection to be stated in the approved plan as provided in section 4. In the case of existing systems which otherwise qualify as cooperative libraries, the number of board members and their relationship to existing governmental units may continue if approved by a majority of the participating libraries and specified in the approved plan.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.558 Cooperative library board; powers and duties.

Sec. 8. The cooperative library board shall:

(a) Have powers which relate to the functioning of the cooperative library and the management and control of the cooperative library's funds and property.

(b) Select a chairperson.

(c) Be a body corporate and a juristic entity for social security and legal identity purposes.

(d) Establish, maintain, and operate cooperative services for public libraries in the cooperative library's area.

(e) Appoint a director or coordinator to administer the cooperative library, fix that person's compensation, and delegate those powers to that person as are in the best interest of the cooperative library, including the power to hire necessary employees.

(f) Purchase books, periodicals, library materials, equipment, and supplies for the cooperative services.

(g) Purchase sites, erect buildings, and lease suitable quarters, and have supervision and control of property of the cooperative library.

(h) Enter into contracts to receive service from or give service to libraries in the state, including public, school, academic, or special libraries, other cooperative libraries and political subdivisions of the state.

(i) Have exclusive control of expenditures for the cooperative library.

(j) Accept gifts and donations of property, real and personal, for the benefit of the cooperative library and for the purposes for which donated.

(k) Adopt bylaws and rules not inconsistent with this act for its own government and do those things necessary to carry out the purposes of this act.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.559 Submission and contents of plan; approval of plan; jurisdiction.

Sec. 9. Following establishment of the cooperative library board, the board shall submit to the state board a plan which designates and describes the responsibilities of the cooperative library, provides for future selection of board membership, and gives notice of the cooperative board's meeting dates. The original plan and any substantial modification shall be approved by the state board. It is expressly understood the cooperative library board has no jurisdiction over the property or management of the local library.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.560 Fiscal year and funds of cooperative library.

Sec. 10. The fiscal year of the cooperative library is October 1 to September 30, except where the cooperative library must conform to the fiscal year fixed by another state law or local charter. The funds of the cooperative library shall be deposited in banks designated by the cooperative library board.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.561 Use of facilities and resources of member libraries; availability of services of cooperative library; appeal from refusal of service.

Sec. 11. Following establishment of the cooperative library board, residents of the cooperative library's area are eligible to use the facilities and resources of the member libraries subject to the rules of the cooperative library plan. Services of the cooperative library, including those of participating libraries, are to be available at reasonable times and on an equal basis within the areas served to school children, individuals in public and nonpublic institutions of learning, and a student or resident within the area. An applicant refused service may appeal to the state board which shall review the operation of the cooperative library and may withhold state aid funds until the services are granted.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977;—Am. 1984, Act 432, Imd. Eff. Jan. 11, 1985.

397.561a Nonresident borrowing fees.

Sec. 11a. A library may charge nonresident borrowing fees to a person residing outside of the library's service area, including a person residing within the cooperative library's service area to which that library is assigned, if the fee does not exceed the costs incurred by the library in making borrowing privileges available to nonresidents including, but not limited to, the costs, direct and indirect, of issuing a library card, facilitating the return of loaned materials, and the attendant cost of administration.

History: Add. 1984, Act 432, Imd. Eff. Jan. 11, 1985.

397.562 Resolution requesting local library to become participating library; rights, duties, and privileges of participating library.

Sec. 12. Once a cooperative plan has been accepted by the state board, and a cooperative library board established, the board of a local library shall adopt a resolution requesting the local library become a participating library in the cooperative library. Duplicate copies of the resolution, certified by the clerk of the local board, shall be filed with the cooperative board. The cooperative board shall accept or show reason for denial of the request for membership within 60 days after filing. When the cooperative board has accepted the resolution, the resolution and the acceptance shall be indorsed and a copy filed with the state board. The participating library has the same rights, duties, and privileges as other libraries participating in that cooperative library.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.563 State aid for cooperative libraries.

Sec. 13. A cooperative library shall be granted continuing state aid at the rate of 50 cents per capita for its served population.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.564 Cooperative board to provide services to member libraries within area of cooperative library.

Sec. 14. The cooperative board shall provide, directly or through a written contract, services to member libraries within the cooperative library's area. The services, subject to standards approved by the state board, may include:

(a) A central pool or rotating book collection.

(b) In-service training.

(c) Book selection aids.

(d) Bibliographic services.

(e) Audio-visual services.

(f) Bookmobile service or other outlets to outlying areas.

(g) Publicity and public relations.

(h) Printing.

(i) A centralized purchasing operation.

(j) Centralized processing including cataloging and marking.

(k) Reference services.

(*l*) Delivery service.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.565 Payment for services by member libraries; cooperative library headquarters.

Sec. 15. When the state aid grant is insufficient to provide all services, the member libraries may be required to pay for services in a priority order to be specified in the cooperative plan. Cooperative library headquarters shall be linked to the library of Michigan and may be required upon adequate funding to provide other services considered essential to good public library service, and so designated by the state board.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977;—Am. 1982, Act 541, Eff. Mar. 30, 1983.

397.566 State aid for public libraries; reimbursing certain public libraries for portion of salary of head librarian; employee wage increases; certifying salary of head librarian.

Sec. 16. (1) A public library shall receive 35 cents per capita from state aid during the fiscal year 1977-78 if in the prior year the library received local support equal to that required by this act.

(2) A public library shall receive 50 cents per capita from state aid during the fiscal year 1978-79 if in the prior year the library received local support equal to that required by this act, the library has not reduced its local support by an amount equal to, or larger than, the state aid from the previous year without the approval of the state board, and the library meets the minimum standards established by the state board and this act.

(3) A public library belonging to a cooperative library shall receive from state aid for the fiscal year 1977-78 an additional 15 cents per capita, all or a part of which must be used to pay for cooperative services from the cooperative board as provided by section 15 and the cooperative plan.

(4) A public library belonging to a cooperative library shall receive from state aid each year after fiscal year 1977-78 an additional 50 cents per capita, all or part of which shall be used to pay for cooperative services from the cooperative board as provided by section 15 and the cooperative plan. When the cost of the cooperative library services has been paid, any remaining portion of the grant may be applied to local services under subsection (2). Each public library cooperative which qualifies under this act during fiscal year 1977-78 and following years shall receive an amount of $10.00 per square mile for the area which it serves if the area served has less than 75 people per square mile.

(5) A public library which is a county library serving a population of 50,000 or less which appoints to the office of head librarian a person with either a bachelor of arts or a bachelor of science degree from a college or university approved by an accrediting association of more than statewide standing, including or supplemented by 1 full year of training in a library school accredited by the American library association and with at least 4 years' experience in an administrative capacity in an approved library, shall be reimbursed for that portion of the salary not exceeding $400.00 for any 1 month or $4,800.00 in any 1 year, if the county library received during the last completed fiscal year before the year in which distribution is to be made, from the county or counties not less than $3,600.00 exclusive of money received from federal or state grants in aid to the library. Wage increases to present employees shall be paid equally by the state and local governments. Before September 6, December 6, March 6, and June 6 of the year of distribution, the county library board or the board's authorized agent shall certify to the state board the actual amount of the salary paid the head librarian during the 3-month period immediately preceding those months.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.567 Compliance with certification requirements as qualification for state aid.

Sec. 17. A cooperative library and public library shall conform to certification requirements for personnel as established by the state board in order to qualify for state aid.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.568 Application for state aid; certification.

Sec. 18. A cooperative library and public library desiring to participate in state aid shall apply before February 1 of each year of distribution. The applicant shall certify to the state board the amount of money received from each source during the last completed fiscal year before October 1 of the year of distribution.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.569 Distribution of state aid; statement; vouchers; warrants.

Sec. 19. The state board shall prepare a statement of the amount to be distributed in accordance with this act. Vouchers for disbursement of state aid shall be signed by an authorized agent of the board and delivered to the department of management and budget, which shall draw up warrants on the department of treasury in favor of the fiscal agent of the cooperative or local board. State aid shall be distributed by September 30 of the year of distribution.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.570 Deposit of money in separate fund; review of expenditures.

Sec. 20. A cooperative library or public library receiving state aid shall deposit the money in a separate fund. Expenditures from that fund are subject to review by the state board or its authorized representative.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.571 Expenditure of state aid.

Sec. 21. State aid paid to a cooperative library or a public library may be used for any expenditure, including the cost of intersystem or intrasystem contracts.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.572 Dispute; hearing; decision.

Sec. 22. When there is a dispute concerning the cooperative library to which a public library shall belong, services rendered to member libraries, or the operations of a cooperative system which cannot be resolved on the local level, the state board may hear the case. The decision of the state board shall be final.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.573 Needs considered by state board in carrying out powers and duties.

Sec. 23. The state board shall consider the following needs in carrying out its powers and duties:

(a) Library facilities shall be provided to residents of the area covered by a cooperative library without needless duplication of facilities, resources, or expertise.

(b) Establishment of a local library may be approved for state aid purposes where local conditions require an additional local library.

(c) Existing libraries and new libraries shall cooperate to provide adequate library services at a reasonable cost.

(d) Increased effort shall be made to provide residents the right to read with added emphasis on areas which normally cannot provide those services.

(e) Local responsibility, initiative, and support for library service shall be recognized and respected when provision is made for adequate local and cooperative library service.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.574 Repealed. 1982, Act 541, Eff. Mar. 30, 1983.

Compiler's note: The repealed section conferred authority on state board to promulgate rules.

397.575 Appropriation.

Sec. 25. There is appropriated for public libraries from the general fund of the state for the fiscal year ending September 30, 1977, and for each fiscal year thereafter, the sum necessary to fulfill the requirements of this act. The appropriation shall be distributed as provided in this act.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

397.576 Repeal of §§397.501 to 397.527.

Sec. 26. Act No. 286 of the Public Acts of 1965, being sections 397.501 to 397.527 of the Compiled Laws of 1970, is repealed.

History: 1977, Act 89, Imd. Eff. Aug. 2, 1977.

THE LIBRARY PRIVACY ACT

Act 455 of 1982

AN ACT to provide for the confidentiality of certain library records; and to provide for the selection and use of library materials.

History: 1982, Act 455, Eff. Mar. 30, 1983.

The People of the State of Michigan enact:

397.601 Short title.

Sec. 1. This act shall be known and may be cited as "the library privacy act".

History: 1982, Act 455, Eff. Mar. 30, 1983.

397.602 Definitions.

Sec. 2. As used in this act:

(a) "Library" includes a library which is established by the state; a county, city, township, village, school district, or other local unit of government or authority or combination of local units of governments and authorities; a community college district; a college or university; or any private library open to the public.

(b) "Library record" means a document, record, or other method of storing information retained by a library that identifies a person as having requested or obtained specific materials from a library. Library record does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general.

History: 1982, Act 455, Eff. Mar. 30, 1983.

397.603 Library record not subject to disclosure requirements; release or disclosure of library record without consent prohibited; exception; procedure and form of written consent; hearing.

Sec. 3. (1) A library record shall not be subject to the disclosure requirements of Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Unless ordered by a court after giving the affected library notice of the request and an opportunity to be heard thereon, a library or an employee or agent of a library shall not release or disclose a library record or portion of a library record to any person without the written consent of the person identified in that record. The procedure and form of giving written consent may be determined by the library.

(3) At a hearing conducted pursuant to subsection (2), a library may appear and be represented by counsel.

History: 1982, Act 455, Eff. Mar. 30, 1983.

397.604 Violation of §397.603; liability; civil action; damages; attorney fees and costs.

Sec. 4. A library or an agent or employee of a library which violates section 3 shall be liable to the person identified in a record that is improperly released or disclosed. The person identified may bring a civil action for actual damages or $250.00, whichever is greater; reasonable attorney fees; and the costs of bringing the action.

History: 1982, Act 455, Eff. Mar. 30, 1983.

397.605 Selection and use of library materials.

Sec. 5. (1) Except as otherwise provided by statute or by a regulation adopted by the governing body of the library, the selection of library materials for inclusion in a library's collection shall be determined only by an employee of the library.

(2) Except as otherwise provided by law or by a regulation adopted by the governing body of the library, the use of library materials shall be determined only by an employee of the library.

History: 1982, Act 455, Eff. Mar. 30, 1983.

MICHIGAN HISTORICAL COMMISSION (EXCERPT)

Act 271 of 1913

AN ACT to create the Michigan historical commission; to provide for the appointment of members of the commission; to fix their terms of office, prescribe their powers and duties; to prescribe the powers and duties of certain state agencies and officers; to make an appropriation to carry out the provisions of this act; to provide for the distribution of certain revenue; to provide for the listing and destruction of useless documents, books and papers; and to repeal all acts and parts of acts inconsistent herewith.

History: 1913, Act 271, Imd. Eff. May 8, 1913;—Am. 1943, Act 172, Eff. July 30, 1943;—Am. 1988, Act 467, Imd. Eff. Dec. 27, 1988.

The People of the State of Michigan enact:

399.7 Secretary of state as custodian of historical publications; distribution and exchange of publications; free copies and sales of journal, Michigan history; price; costs; disposition and use of money.

Sec. 7. (1) The secretary of state shall be the custodian of the historical publications of the department of state and may distribute, exchange, or both distribute and exchange the publications with domestic and foreign states, governments, and institutions.

(2) The secretary of state shall publish a journal entitled Michigan history and shall furnish 1 copy of the journal, free of charge, to each cooperative library in this state, if officially requested to do so by the officers of the library.

(3) The secretary of state shall furnish to each member of the legislature 1 copy of each journal published during the legislator's term, free of charge, if requested to do so by the legislator.

(4) Except as provided in subsections (2) and (3), the secretary of state shall sell each copy of the journal, Michigan history, at a price set by the secretary of state. The printing, distribution, and promotion costs incurred by the journal shall be paid exclusively from the Michigan heritage publications fund.

(5) The secretary of state may raise or lower the selling price of Michigan history to reflect changes in printing, distribution, and promotion costs incurred by the journal.

(6) The money collected from the sale of Michigan history and the material listed in section 6(2) shall be credited to a revolving fund created by this act which is called the Michigan heritage publications fund. The money shall be used to pay the printing, distribution, and promotion costs of Michigan history and the material listed in section 6(2). The money in the revolving fund at the close of the fiscal year shall remain in the revolving fund.

History: 1913, Act 271, Imd. Eff. May 8, 1913;—CL 1915, 10733;—Am. 1917, Act 192, Imd. Eff. May 8, 1917;—CL 1929, 8120;—Am. 1931, Act 245, Eff. Sept. 18, 1931;—CL 1948, 399.7;—Am. 1978, Act 209, Imd. Eff. June 4, 1978;—Am. 1984, Act 309, Imd. Eff. Dec. 21, 1984.

CHARITABLE ORGANIZATIONS AND SOLICITATIONS ACT

Act 169 of 1975

AN ACT to regulate organizations and persons soliciting or collecting contributions for charitable purposes; to require registration, disclosure of information and licensing before solicitation of contributions; to provide for reporting of financial and other information by those licensed or registered and those claiming exemption; to prescribe standards of conduct and administration, and to prohibit certain actions; to provide for enforcement, investigation, and promulgation of rules by the attorney general; to preempt local regulation; to provide penalties for violations; and to repeal certain acts and parts of acts.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

The People of the State of Michigan enact:

400.271 Short title.

Sec. 1. This act shall be known and may be cited as the "charitable organizations and solicitations act".

History: 1975, Act 169, Imd. Eff. July 20, 1975.

Cited in other sections: Sections 400.271 to 400.294 are cited in §450.2124.

400.272 Definitions.

Sec. 2. As used in this act:

(a) "Charitable organization" means a benevolent, educational, philanthropic, humane, patriotic, or eleemosynary organization of persons which solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch, area office, or similar affiliate or person soliciting contributions within the state for a charitable organization which has its principal place of business outside the state is a charitable organization. This definition does not include duly constituted religious organizations or a group affiliated with and forming an integral part of a religious organization no part of the net income of which inures to the direct benefit of any individual if it has received a declaration of current tax exempt status from the United States. The affiliated group shall not be required to obtain a declaration if the parent or principal organization has obtained tax exempt status. Charitable organization does not include a candidate or committee as defined in section 901 of Act No. 116 of the Public Acts of 1954, being section 168.901 of the Michigan Compiled Laws, or a political party qualified to be on the general election ballot pursuant to section 560a of Act No. 116 of the Public Acts of 1954, as added, being section 168.560a of the Michigan Compiled Laws.

(b) "Contribution" means the promise, grant, or payment of money or property of any kind or value, including promises to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from a governmental authority or foundation restricted as to use.

(c) "Person" means an individual, organization, group, association, partnership, corporation, trust, or any combination of them.

(d) "Soliciting material" means printed or similar material, including but not limited to labels, posters, television scripts, radio scripts, or recordings used in soliciting funds from the public.

(e) "Solicitor" means a person who solicits on behalf of a charitable organization.

(f) "Professional fund raiser" means a person who for compensation or other consideration plans, conducts, manages, or carries on a drive or campaign of soliciting contributions for or on behalf of a charitable organization, religious organization, or any other person; or who engages in the business of or holds himself out as independently engaged in the business of soliciting contributions for such purposes. A bona fide officer or employee of a charitable organization is not a professional fund raiser unless his salary or other compensation is computed on the basis of funds to be raised or actually raised.

(g) "Professional solicitor" means a person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes.

(h) "Prohibited transaction" is that dealing, activity, conduct, administration, or management of the charitable organization or by any of its officers, trustees, personnel, or related persons which may be prohibited as constituting activity contrary to proper administration of the charitable organization or conduct of a fund raising campaign or solicitation by a professional fund raiser or solicitor.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

Cited in other sections: Section 400.272 is cited in §434.26.

400.273 Charitable organization; application for license.

Sec. 3. Before a solicitation, a charitable organization which is not an exempt organization and which is not described in section 13, which solicits or intends to solicit or receives or intends to receive contributions from persons by any means whatsoever, shall file with the attorney general upon forms prescribed by him, an application for a license. It shall include the following information:

(a) The name of the organization and the name under which it intends to solicit contributions.

(b) The principal address of the organization and the address of any office in this state. If the organization does not maintain a principal office, the name and address of the person having custody of its financial records.

(c) The names and addresses of the officers, directors, trustees, chief executive officer, and state agent.

(d) Where and when the organization was legally established, the form of its organization, and its tax exempt status.

(e) The purpose for which it is organized and the purposes for which contributions to be solicited will be used.

(f) The fiscal year date of the organization.

(g) Whether the organization is or has ever been enjoined from soliciting contributions.

(h) All methods by which solicitations will be made.

(i) Copies of contracts between charitable organizations and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. When the contract is executed after filing of application statement, a copy shall be filed within 10 days of the date of execution.

(j) Other information as required by rule.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.274 Copies of contracts and soliciting materials.

Sec. 4. (1) True and correct copies of the contracts of professional fund raisers shall be kept on file in the offices of the charitable organization and the professional fund raiser during the term of employment and for 6 years subsequent to the date the solicitation of contributions provided for therein actually terminates.

(2) Copies of all soliciting materials shall be supplied upon request of the attorney general.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.275 Examination of license application; issuance of license; exceptions; purpose of license; suspension or revocation of license; notice; hearing; evidence of compliance.

Sec. 5. (1) An application in proper form and supported by material information required shall be examined by the attorney general. If the application and supporting material conforms to the requirements of this act and the rules, the attorney general shall issue a license to the charitable organization within 30 days, except where the organization has materially misrepresented or omitted information required or the organization has acted or is acting in violation of this act or rules promulgated hereunder.

(2) The license shall be without charge and issued to the charitable organization, its agents and representatives for the purpose of soliciting and receiving contributions and donations or to sell memberships or otherwise raise moneys from the public for the specified charitable purpose.

(3) A license issued to a professional fund raiser, professional solicitor, or a charitable organization, its agents and representatives may be suspended or revoked by the attorney general for violation of this act or rules promulgated hereunder, after reasonable notice and opportunity to be heard. The attorney general may suspend on an emergency basis, without hearing, any license issued to a professional fund raiser, professional solicitor, or a charitable organization when the attorney general specifies in the notice of emergency suspension the reasons and grounds indicating a violation of this act or any rule which constitutes the emergency. The notice shall set forth that within 48 hours, at a designated time and place, a hearing shall be held on whether the license should be permanently suspended or revoked. The professional fund raiser, professional solicitor, or charitable organization may show compliance with the requirements of this act or the rules and shall have the burden of adducing the evidence.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.276 Notice of change in information; report.

Sec. 6. A charitable organization shall notify the attorney general within 30 days of any change in the information required to be furnished under section 3. A report shall be filed and signed by the president or other authorized officer and the chief fiscal officer of the organization.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.277 Expiration of license; renewal application and supporting information.

Sec. 7. The license of a charitable organization shall expire 1 year after the date of issuance. A charitable organization desiring renewal of a license shall file with the attorney general a renewal application and supporting information on or before 30 days prior to the expiration date.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.278 Documents; books and records; inspection.

Sec. 8. Documents required to be filed with the attorney general shall be open to public inspection. Persons subject to this act shall maintain accurate and detailed books and records at the office of the resident agent or the principal office which shall be open to inspection at all reasonable times by the attorney general or his authorized representative.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.279 Local, county, or area division supervised and controlled by superior or parent organization; registration; application statement; annual report.

Sec. 9. If a local, county, or area division of a charitable organization is directly supervised and controlled by a superior or parent organization, which is incorporated, qualified to do business or doing business within this state, the local, county, or area division is not required to register under section 3 if the superior or parent organization files an application statement on behalf of the local, county, or area division in addition to or as part of its application statement. When an application statement has been filed by a superior or parent organization, it shall file the annual report required under sections 14 and 16 on behalf of the local, county, or area division in such detail as required by the rules.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.280 Rules.

Sec. 10. The attorney general may promulgate rules necessary for the administration of this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. Emergency rules may not be promulgated pursuant to this act.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.281 Designation of resident agent; service of process.

Sec. 11. (1) An application for a license shall not be accepted from a charitable organization located in another state or country unless it first designates a resident agent in this state for the acceptance of process issued by any court.

(2) A charitable organization, person, professional fund raiser, or professional solicitor, soliciting contributions in this state but not maintaining an office within the state shall be subject to service of process as follows:

(a) By service on its registered agent within the state or if there is no registered agent, then upon the person who has been designated in the application statement as having custody of books and records within this state. When service is effected upon the person designated in the registration statement a copy of the process shall be mailed to the charitable organization at its last known address.

(b) When a charitable organization has solicited contributions in this state but does not maintain an office within the state, have a registered agent within this state and have a designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which the registered agent or person having custody of books and records has been represented by the charitable organization as maintaining an office, service may be made as otherwise provided by law or court rules.

(3) Solicitation of a contribution within this state by any means, is the agreement of the charitable organization, person, professional fund raiser, or professional solicitor, that any process against it or him which is served in accordance with this section is of the same legal force and effect as if served personally.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.282 Suspending filing of reports; written application and statement.

Sec. 12. Upon initial filing of an application statement pursuant to section 3, the attorney general may suspend for a reasonable, specifically designated time the filing of reports otherwise required by sections 14 and 15 as to a particular charitable corporation, trust, or organization incorporated or established for charitable purposes, upon written application filed with the attorney general, and after the attorney general has determined and acquiesced by a written statement that the interest of the public will not be prejudiced thereby.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.283 Exemptions from licensing and financial statement requirements.

Sec. 13. The licensing and financial statement requirements of this act do not apply to any of the following:

(a) A person who requests a contribution for the relief or benefit of an individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary after deducting reasonable expenses for costs of solicitation, if any, and if all fund-raising functions are carried on by persons who are unpaid, directly or indirectly, for their services.

(b) A person who does not intend to solicit and receive and does not actually receive contributions in excess of $8,000.00 during any 12-month period if all of its fund-raising functions are carried on by persons who are unpaid for their services and if the organization makes available to its members and the public a financial statement of its activities for the most recent fiscal year. If the gross contributions received during any 12-month period exceed $8,000.00, the person shall file an application for license with required supporting information as provided in section 3 within 30 days after the date it has received total contributions in excess of $8,000.00.

(c) An organization that does not invite the general public to become a member of the organization and confines solicitation activities to solicitation drives solely among its members and the members' immediate families, if the drives are not held more frequently than quarterly. "Immediate family" means the grandparents, parents, spouse, brothers, sisters, children, and grandchildren.

(d) An educational institution certified by the state board of education.

(e) A veterans' organization incorporated under federal law.

(f) An organization that receives funds from a charitable organization licensed under this act that does not solicit or intend to solicit or receive or intend to receive contributions from persons other than a charitable organization, if the organization makes available to its members and the public a financial statement of its activities for the most recent fiscal year.

(g) A licensed hospital, hospital based foundation, and hospital auxiliary that solicit funds solely for 1 or more licensed hospitals.

(h) A nonprofit service organization that is exempt from taxation pursuant to a provision of the United States internal revenue code other than section 501(c)(3), whose principal purpose is not charitable, but solicits from time to time funds for a charitable purpose by members of the organization who are not paid for the solicitation. The funds shall be wholly used for the charitable purposes for which they were solicited, and the organization shall file with the attorney general a federal form 990 or 990 AR.

(i) A nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill in which no part of the net income from the operation of the corporation inures to the benefit of a person other than the residents.

(j) Charitable organizations licensed by the department of social services that serve children and families.

(k) A person registered under and complying with the requirements of the public safety solicitation act.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976;—Am. 1992, Act 299, Imd. Eff. Dec. 18, 1992.

400.284 Financial statement.

Sec. 14. A charitable organization subject to this act in support of its application for a license or renewal shall file with the attorney general a financial statement covering the immediately preceding 12-month period of operation containing information and detail as shall be required on forms prescribed by the attorney general.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.285 Repealed. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

Compiler's note: The repealed section required statement of basis for claiming continuing exemption.

400.286 Continuing license upon noncompliance.

Sec. 16. The attorney general may continue under conditions the license of an organization, professional fund raiser, or professional solicitor which fails to comply with this act including failure to comply with the rules regarding prohibited transactions, standards of solicitation, conduct, or administration.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.287 Professional fund raiser; application for license; bond; renewal of license; registration or reregistration of professional solicitor.

Sec. 17. (1) A person shall not act as a professional fund raiser for a charitable organization or charitable purpose before he has filed an application for a license with the attorney general or after the expiration or cancellation of a license or renewal thereof. Applications for license shall be in writing, under oath, in the form prescribed by the attorney general. The applicant when making application, shall file with and have approved by the attorney general a bond in which the applicant shall be the principal obligor, in the sum of $10,000.00. The bond shall run to the people of the state and to any person including charitable organizations who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance in the conduct of the solicitation. The aggregate limit of liability of the surety to the state and to all the persons shall not exceed the sum of the bond. Application for renewal of licenses when effected shall be for a period of 1 year, or a part thereof, expiring on June 30, and may be renewed for additional 1-year periods upon written application, under oath, in the form prescribed by the attorney general and the filing of the bond.

(2) A person shall not act as a professional solicitor in the employ of a professional fund raiser required to be licensed before he has registered with the attorney general or after the expiration or cancellation of registration. Application for registration or reregistration shall be in writing, under oath, in the form prescribed by the attorney general. Registration or reregistration when effected shall be for a period of 1 year, or a part thereof, expiring on June 30, and may be renewed upon written application, under oath, in the form prescribed by the attorney general for additional 1-year periods.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.288 Using name of another for purpose of soliciting contributions; publishing names of contributors; prohibited names, symbols, or statements; identification.

Sec. 18. (1) A person shall not use for the purpose of soliciting contributions the name of another person, except that of an officer, director, or trustee of the charitable organization by or for which contributions are solicited, without the consent of such other person.

(2) A person has used the name of another person for the purpose of soliciting contributions if the latter person's name is listed on stationery, an advertisement, brochure, or in correspondence by which a contribution is solicited by or on behalf of a charitable organization or the name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or indorsed the organization or its activities.

(3) This section does not prevent the publication of names of contributors without their written consent in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

(4) A charitable organization or professional fund raiser soliciting contributions shall not use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that would tend to confuse or mislead the public.

(5) A charitable organization, whether exempt or not from this act, shall supply to each solicitor and each solicitor shall have in immediate possession identification which sets forth the name of the solicitor and the name of the charitable organization on whose behalf the solicitation is conducted.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.289 Repealed. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

Compiler's note: The repealed section contained provisions to licensure or registration.

400.290 Grounds for injunction, suspension of license, or revocation of license; operating under guise or pretense.

Sec. 20. (1) The attorney general may institute an action in any circuit court to enjoin preliminarily or permanently a charitable organization, professional fund raiser, solicitor, or other person who:

(a) Engages in a method, act, or practice in violation of this act or any of the rules promulgated hereunder.

(b) Employs or uses in a solicitation or collection of contributions for a charitable organization on behalf of any other person for a charitable purpose a device, scheme, or artifice to defraud, or for obtaining money or property by means of any false pretense, deception, representation, or promise.

(2) In addition to any relief afforded under this section, the attorney general may exercise the authority to suspend or revoke a license issued pursuant to this act.

(3) The attorney general may exercise the authority granted in this section against a charitable organization or person which or who operates under the guise or pretense of being an organization or person exempted by this act and is not in fact an organization or person entitled to such an exemption.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.291 Investigation; appearance; order; service; contempt; oath or affirmation.

Sec. 21. (1) The attorney general may investigate the operations or conduct of charitable organizations, professional fund raisers, or professional solicitors subject to this act. He may require a person, corporation, institution, or association, and the officers, members, and employees and agents thereof, to appear at a named time and place in the county designated by the attorney general or where the person resides or is found, to give information under oath and to produce books, memoranda, papers, records, documents of title, evidence of assets, liabilities, receipts, or disbursements in the possession or control of the person ordered to appear.

(2) When the attorney general requires the attendance of a person, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be served upon the person in the manner provided for service of process in civil cases at least 5 days before the date fixed for attendance. The order shall have the same force and effect as a subpoena and, upon application of the attorney general, obedience to the order may be enforced by a court having jurisdiction over the person, the circuit court for the county of Ingham, or for the county where the person receiving it resides

or is found, in the same manner as though the notice were a subpoena. In case of contumacy or refusal to obey the order issued by the attorney general, the court may issue an order requiring the person to appear before the court or to produce documentary evidence, if so ordered, or to give evidence touching the matter in question. Failure to obey the order of the court shall be punished by that court as a contempt. The investigation may be made by or before an assistant attorney general designated in writing by the attorney general to conduct the investigation. The attorney general or the assistant attorney general acting in his behalf may administer the necessary oath or affirmation to witnesses.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.292 Powers and duties of attorney general not restricted.

Sec. 22. This act shall not be construed to limit or restrict the exercise of powers or the performance of the duties of the attorney general which he otherwise is authorized to exercise or perform under any other provisions of law.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.293 Conduct constituting misdemeanor; penalty; prosecution.

Sec. 23. (1) A person who does any of the following is guilty of a misdemeanor punishable by a fine of not more than $500.00, or imprisonment for not more than 6 months, or both:

(a) Violates this act.

(b) Solicits and receives public donations, or sells memberships in this state for and on behalf of any organization, institution, or association subject to the provisions of this act and which is not duly licensed pursuant to this act.

(c) Solicits funds under a license and thereafter diverts the same to purposes other than that for which the funds were contributed.

(2) This section shall not be construed to limit or restrict prosecution under the general criminal statutes of the state.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.294 Repeal of §§400.301 to 400.304.

Sec. 24. Act No. 68 of the Public Acts of 1915, being sections 400.301 to 400.304 of the Compiled Laws of 1970, is repealed.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (EXCERPTS)

Act 154 of 1974

AN ACT to prescribe and regulate working conditions; to prescribe the duties of employers and employees as to places and conditions of employment; to create certain boards, commissions, committees, and divisions relative to occupational and construction health and safety; to prescribe their powers and duties and powers and duties of the department of labor and department of public health; to prescribe certain powers and duties of the directors of the departments of labor, public health, and agriculture; to impose an annual levy to provide revenue for the safety education and training division; to provide remedies and penalties; to repeal certain acts and parts of acts; and to repeal certain acts and parts of act on specific dates.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 1986, Act 147, Imd. Eff. July 2, 1986.
Compiler's note: In the last sentence of this title, "act" evidently should read "acts".

The People of the State of Michigan enact:

408.1001 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan occupational safety and health act".

History: 1974, Act 154, Eff. Jan. 1, 1975.
Cited in other sections: Section 408.1001 et seq. is cited in §§29.5p and 125.1528.

408.1002 Scope of act; effect on statutory or common law.

Sec. 2. (1) This act shall apply to all places of employment in the state, except in domestic employment and in mines as defined in section 4.

(2) Nothing in this act shall be construed to supersede or in any manner affect any workers' compensation law, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1003 Meanings of words and phrases.

Sec. 3. The words and phrases defined in sections 4 to 6 have the meanings respectively ascribed to them for the purposes of this act.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1004 Definitions; A to M.

Sec. 4. (1) "Agricultural operations" means the work activity designated in major groups 01 and 02 of the standard industrial classification manual, United States bureau of the budget, 1972 edition. Agricultural operations include any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations including preparation for market delivery to storage or market or to carriers for transportation to market.

(2) "Authorized employee representative" or "representative of employee" means a person designated by a labor organization certified by the national labor relations board or employment relations commission as defined in section 2(c) of Act No. 176 of the Public Acts of 1939, as amended, being section 423.2 of the Michigan Compiled Laws, as the bargaining representative for the affected employees. In the absence of certification, it shall be a person designated by the organization having a collective bargaining relationship with the employer and designated as having a collective bargaining relationship with the employer by the affected employees. If a labor organization has not been certified, or if no organization has a collective bargaining relationship with the employer, "authorized employee representative" or "representative of employee" means a person designated by the affected employees to represent them for the purpose of proceedings under this act.

(3) "Board" means the board of health and safety compliance and appeals created in section 46.

(4) "Construction operations" means the work activity designated in major groups 15, 16, and 17 of the standard industrial classification manual, United States bureau of the budget, 1972 edition.

(5) "Department attorney" means the attorney general or the authorized representative of the attorney general.

(6) "Domestic employment" means that employment involving an employee specifically employed by a householder to engage in work or an activity relating to the operation of a household and its surroundings, whether or not the employee resides in the household.

(7) "Mines", except as provided in subdivision (d), means all of the following:

(a) An area of land from which minerals are extracted in nonliquid form, or if in liquid form, are extracted with workers underground.

(b) Private ways and roads appurtenant to an area of land described in subdivision (a).

(c) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities.

(d) This subsection does not include industrial borrow pits, or sand, gravel, or crushed and dimension stone quarrying operations, or surface construction operations.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1005 Definitions; E to I.

Sec. 5. (1) "Employee" means a person permitted to work by an employer.

(2) "Employer" means an individual or organization, including the state or a political subdivision, which employs 1 or more persons.

(3) "Imminent danger" means a condition or practice in a place of employment which is such that a danger exists which could reasonably be expected to cause death or serious physical harm either immediately or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided. A container of an unknown and unlabeled chemical or a container of hazardous chemicals that is not labeled or for which a material safety data sheet is not available as required by the standard incorporated by reference in section 14a shall be considered an imminent danger after meeting the provisions of section 31.

(4) "Inspection" means the examination or survey of a place of employment to detect the presence of an existing or potential occupational safety or health hazard or to determine compliance with this act, rules or standards promulgated, or orders issued pursuant to this act.

(5) "Investigation" means the detailed evaluation or study of working conditions, including equipment, processes, substances, air contaminants, or physical agents with respect to the actual or potential occurrence of occupational accidents, illnesses, or diseases.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1006 Definitions; P to W.

Sec. 6. (1) "Place of employment" means a factory, plant, establishment, construction site or other similar area, workplace, or environment where an employee is permitted to work.

(2) "Political subdivision" means a city, village, township, county, school district, intermediate school district, or state or local government authorized or supported agency, authority, or institution.

(3) "Rule" means a rule as defined by section 7 of Act No. 306 of the Public Acts of 1969, being section 24.207 of the Michigan Compiled Laws. A rule may only be promulgated by the director of labor or director of health except as otherwise specifically prescribed in this act.

(4) "Serious violation" means a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act or adopted by reference pursuant to this act for which a substantial probability exists that death or serious physical harm could result from the violation or from a practice, means, method, operation, or process which is in use, unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(5) "Standard" means a health or safety standard which specifies conditions, or the adoption or use of 1 or more practices, means, methods, operations, or processes necessary to provide safe and healthful employment in places of employment. Except as otherwise specifically prescribed in this act, only the:

(a) General industry safety standards commission may promulgate a standard relative to occupational safety.

(b) Construction safety standards commission may promulgate a standard relative to construction safety.

(c) Occupational health standards commission may promulgate a standard relative to occupational health.

(6) "Standards promulgation commission" means the general industry safety standards commission, the construction safety standards commission, or the occupational health standards commission.

(7) "Trade secret" means a confidential process, formula, pattern, device, or compilation of information which is used in the employer's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.

(8) "Wilful", for the purpose of criminal prosecutions, means the intent to do an act knowingly and purposely by an individual who, having a free will and choice, either intentionally disregards a requirement of this act, or a rule or standard promulgated pursuant to this act, or is knowingly and purposely indifferent to a requirement of this act, or a rule or standard promulgated pursuant to this act. An omission or failure to act is wilful if it is done knowingly and purposely. Wilful does not require a showing of moral turpitude, evil purpose, or criminal intent provided the individual is shown to have acted or to have failed to act knowingly and purposely.

(9) "Working day" means any day other than a Saturday, Sunday, or state legal holiday.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1978, Act 455, Imd. Eff. Oct. 16, 1978.

408.1009 Legislative declaration.

Sec. 9. The safety, health, and general welfare of employees are primary public concerns. The legislature hereby declares that all employees shall be provided safe and healthful work environments free of recognized hazards.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1011 Duties of employer.

Sec. 11. An employer shall:

(a) Furnish to each employee, employment and a place of employment which is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee.

(b) Comply with this act and with the rules and standards promulgated and the orders issued pursuant to this act.

(c) Post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act, including applicable rules and standards.

(d) Provide personal protective equipment at the employer's expense when it is specifically required to be provided at the employer's expense in a rule or a standard promulgated by a standards promulgating commission. When promulgating a rule or a standard concerning personal protective equipment, the standards promulgating commission shall use at least the following criteria in determining who should pay for the equipment:

(*i*) Whether the equipment is transferable between employees.

(*ii*) Whether the equipment is maintained by the employer.

(*iii*) Whether the equipment generally remains at the work site after the work activity has been completed.

(*iv*) The amount of personal use involved with the equipment.

(*v*) Any other criteria deemed applicable by the standards promulgating commission.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1980, Act 51, Imd. Eff. Mar. 25, 1980;—Am. 1986, Act 80, Eff. May 25, 1986.

408.1012 Duties of employee.

Sec. 12. An employee shall:

(a) Comply with rules and standards promulgated, and with orders issued pursuant to this act.

(b) Not remove, displace, damage, destroy, or carry off a safeguard furnished or provided for use in a place of employment, or interfere in any way with the use thereof by any other person.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1013 Administration and enforcement; reports.

Sec. 13. (1) The department of labor shall administer and enforce the provisions of this act relative to occupational safety.

(2) The department of public health shall administer and enforce the provisions of this act relative to occupational health.

(3) The department of labor and department of public health shall report annually by January 31 in writing to the committees on labor and public health of the house of representatives and committees on labor and health, social services and retirement of the senate specifying the provisions of this act where the authority of the departments overlap, and all agreements and administrative procedures to coordinate joint enforcement of the act. Any changes in these agreements or administrative procedures must be reported in writing to the committees on labor and public health of the house of representatives and committees on labor and health, social services and retirement of the senate within 15 days of the changes.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 233, Imd. Eff. Nov. 30, 1977;—Am. 1978, Act 455, Imd. Eff. Oct. 16, 1978.

408.1014 Federal standards incorporated by reference; force and effect; conflicts; copies of standard; processing proposed rule substantially similar to federal standard; compliance with administrative procedures act of 1969.

Sec. 14. (1) Except as otherwise provided in subsection (3), the occupational safety and health standards that have been adopted or promulgated by the United States department of labor under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat. 1590, and that are in effect on January 1, 1975 are incorporated by reference and have the same force and effect as a rule promulgated pursuant to this act. A standard that is incorporated by reference pursuant to this subsection remains in effect until either of the following conditions occurs:

(a) A standard is promulgated pursuant to this act that covers the same or a similar subject.

(b) The standard is rescinded by rule promulgated pursuant to this act.

(2) When a rule or standard that is continued pursuant to section 24(3) conflicts with or covers the same or similar subject as a standard incorporated by reference pursuant to subsection (1), the federal standard incorporated by reference governs and the state rule or standard continued pursuant to section 24(3) shall be rescinded.

(3) When a rule or standard that is continued in effect under this act pursuant to section 21(1) covers the same subject as a federal standard, subsection (1) does not apply.

(4) The department of labor and the department of public health shall determine which of them is responsible for administering and enforcing each of the standards incorporated by reference pursuant to subsection (1).

(5) The department of labor or the department of public health, whichever is responsible for administering and enforcing a standard incorporated by reference pursuant to subsection (1), shall make copies of the standard available to the public at cost.

(6) Beginning April 1, 1992, not later than 10 working days after the date that the United States department of labor adopts or promulgates an occupational safety and health standard under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat. 1590, the director of labor or the director of public health, or both, shall initiate the processing of an administrative rule that is substantially similar to the federal occupational safety and health standard. The proposed administrative rule shall be presented to the joint committee on administrative rules unless 1 of the following occurs:

(a) The general industry safety standards commission determines and certifies that the federal standard is clearly inconsistent with the criteria set forth in sections 9 and 16.

(b) The construction safety standards commission determines and certifies that the federal standard is clearly inconsistent with the criteria set forth in sections 9 and 19.

(c) The occupational health standards commission determines and certifies that the federal standard is clearly inconsistent with the criteria set forth in sections 9 and 24.

(7) Beginning April 1, 1992, a proposed administrative rule that would address a matter not addressed by 1 or more federal standards shall not be processed and presented to the joint committee on administrative rules unless the appropriate standards commission determines and certifies that there is a clear and convincing need for the standard to meet the criteria set forth, as appropriate, in sections 9, 16, 19, and 24.

(8) The administrative rules described in subsections (6) and (7) shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991.

408.1014a Occupational safety and health hazard communication standard; incorporation by reference; applicability of standard; conflicting provisions; administration and enforcement of standards; duties of employers; exception.

Sec. 14a. (1) The occupational safety and health hazard communication standard that has been adopted or promulgated by the United States department of labor and has been codified at 29 C.F.R. 1910.1200 as of the effective date of the amendatory act that adds this section is incorporated by reference and shall have the same force and effect as a rule promulgated pursuant to this act. In addition to the standard incorporated by reference in this subsection, sections 14b to 14l shall apply to an employer subject to this act. The applicability of the standard incorporated by reference in this subsection and of sections 14b to 14l is subject to subsections (4), (5), (6), and (7).

(2) When a rule or standard that is continued pursuant to section 24(3) is in conflict with or covers the same or similar subject as a standard incorporated by reference pursuant to subsection (1), the federal standard so incorporated by reference shall govern, and the state rule or standard continued pursuant to section 24(3) is rescinded.

(3) The department of labor shall administer and enforce the provisions of the standard incorporated by reference in subsection (1) relative to occupational safety. The department of public health shall administer and enforce the provisions of the standard incorporated by reference in subsection (1) relative to occupational health. The departments of public health and labor shall administer and enforce the provisions of the standard incorporated by reference in subsection (1) in a manner that is consistent with the administration and enforcement of the standard by the federal occupational safety and health administration.

(4) Beginning November 25, 1985, employers who are chemical manufacturers in a standard industrial classification of 20 through 39 of the standard industrial classification code published by the federal department of management and budget, importers, and distributors shall label containers of hazardous chemicals leaving their workplaces, provide material safety data sheets with initial shipments, and otherwise comply with any applicable provision of the standard incorporated by reference pursuant to subsection (1) and of sections 14b to 14l. A chemical manufacturer, importer, or distributor subject to this subsection shall provide a material safety data sheet and an appropriately labeled container to each employer in this state, regardless of the employer's standard industrial classification in the standard industrial classification code, who purchases a hazardous chemical.

(5) Beginning May 25, 1986, an employer in a standard industrial classification of 20 through 39 of the standard industrial classification code published by the federal department of management and budget shall comply with the requirements of the standard incorporated by reference pursuant to subsection (1) and with sections 14b to 14l with respect to the use of hazardous chemicals in the workplace.

(6) Beginning February 25, 1987, an employer who is subject to this act but who is not otherwise specifically described in subsections (4) and (5) shall comply with the requirements of the standard incorporated by reference pursuant to subsection

(1) and with sections 14b to 14l with respect to the use of hazardous chemicals in the workplace. However, instead of complying with any conflicting provision of the standard incorporated by reference in subsection (1), an employer who is described in this subsection is required:

(a) To provide information and training only to employees who are exposed to hazardous chemicals in the normal course of employment or who are likely to be exposed to hazardous chemicals in the event of an emergency.

(b) In the case where a hazardous chemical is mixed or combined with any other chemical or hazardous chemical by the employer, to maintain and provide a material safety data sheet for each constituent hazardous chemical and to maintain a material identification system that identifies to employees the appropriate material safety data sheets.

(7) The standard incorporated by reference in subsection (1), this section, and sections 14b to 14l shall not be construed to require an employer in a standard industrial classification other than 20 through 39 of the standard industrial classification code published by the federal department of management and budget to evaluate chemicals, to develop labels for containers of hazardous chemicals, or to develop material safety data sheets.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

Cited in other sections: Section 408.1014a is cited in §333.2232.

408.1014b Disclosure of specific chemical identity.

Sec. 14b. In nonemergency situations, a chemical manufacturer, importer, or employer claiming a trade secret, upon request, shall disclose a specific chemical identity, otherwise permitted to be withheld under the standard incorporated by reference in section 14a, in addition to a health professional as specified in 29 C.F.R. 1910.1200(i)(3), to an occupational health nurse providing medical or other occupational health services to exposed employees, to an authorized employee representative of an exposed employee, and to an exposed employee, if the occupational health nurse, the representative, and the employee comply with the requirements described in 29 C.F.R. 1910.1200(i)(3) and (4).

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014c Identification of pipes and piping systems in workplace; establishment of pipe and stationary process container entry procedure; applicable provisions.

Sec. 14c. Pipes or piping systems in a workplace that contain a hazardous chemical shall be identified to an employee by a label or by a sign, placard, written operating instructions, process sheet, batch ticket, or a substance identification system that conveys the same information required to be displayed on a label by the standard incorporated by reference in section 14a. The employer shall provide at least 1 label, sign, placard, set of written operating instructions, process sheet, batch ticket, or a substance identification system selected by the employer and readily accessible to each employee at a location in the workplace designated by the employer. The employer shall establish a pipe and stationary process container entry procedure that will assure that the information required by 29 C.F.R. 1910.1200(f) is conveyed to an employee before entry. The requirements of this subsection shall apply in addition to the occupational safety and health hazard communication standard incorporated by reference in section 14a.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014d Trade secret claims; petition; review; confidentiality; determination; final order; revocation of order; hearing; exemption of records and information from disclosure under freedom of information act; providing director with specific chemical identity and percentage composition of hazardous chemical.

Sec. 14d. (1) Upon request of the director of the department of public health, an employer who claims a trade secret under the standard incorporated by reference by section 14a shall support the trade secret claim. Subject to subsection (2), the director shall consider the following factors in determining whether a specific chemical identity may be withheld as a trade secret:

(a) The extent to which the information is known outside the employer's business.

(b) The extent to which it is known by employees and others involved in the employer's business.

(c) The extent of measures taken by the employer to guard the secrecy of the information.

(d) The value of the information to the employer and the employer's competitors.

(e) The amount of effort and money expended by the employer in developing the information.

(f) The ease or difficulty with which the information could be properly acquired or duplicated by others.

(2) The determination made by the director under subsection (1) shall not uphold as a trade secret any chemical identity information that is readily discoverable through reverse engineering.

(3) This section shall not be construed to require the prior approval of trade secret claims by the director of the department of public health or the director of the department of labor.

(4) An exposed employee, a health professional providing medical or other occupational health services to exposed employees, or an authorized employee representative of an exposed employee may petition the director of the department of

public health to review a denial of a written request for disclosure of a specific chemical identity. This review shall be conducted as a contested case pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, and shall be confidential. The director shall review the assertion of trade secrecy and make a determination in accordance with the principles provided in this section and the standard incorporated by reference in section 14a. In preparing the final order, the director shall consider and require any prudent measures necessary to protect the health of employees or the public in general while maintaining the confidentiality of any trade secrets.

(5) The director of public health may revoke any order entered under subsection (4) upholding a trade secret claim after a hearing involving the parties of interest upon showing that a party has not complied with an order issued pursuant to subsection (4).

(6) Records and information obtained by any department, commission, or public agency related to a review by the director of public health under subsection (4) and to information determined by the director to be a trade secret in that review shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(7) Notwithstanding that information has been claimed as a trade secret pursuant to 29 C.F.R. 1910.1200(i) or has been upheld by the director as a trade secret pursuant to this section, a chemical manufacturer, importer, or employer shall provide the specific chemical identity and percentage composition of a hazardous chemical to the director of public health when the director requests that information in the discharge of the director's duties under this act.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014e Public service announcements.

Sec. 14e. In order to educate employers, employees, and the public about the hazards of exposure to hazardous chemicals and the requirements of the occupational safety and health hazard communication standard incorporated by reference in section 14a and the requirements of sections 14b to 14l, the departments of public health and labor shall distribute periodically public service announcements to newspapers and television and radio stations throughout this state.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014f Employer engaged in agricultural operations; compliance; certifying list of chemicals.

Sec. 14f. (1) An employer engaged in agricultural operations is not required to comply with the standard incorporated by reference in section 14a or sections 14b to 14l for a hazardous chemical that is regulated under the insecticide, fungicide, and rodenticide act, 7 U.S.C. 136 to 136y, or the pesticide control act, Act No. 171 of the Public Acts of 1976, being sections 286.551 to 286.581 of the Michigan Compiled Laws, and any rules or regulations promulgated under those acts.

(2) The director of the department of agriculture at least annually shall certify to the department of public health a list of chemicals regulated by the acts described in subsection (1).

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

Administrative rules: R 285.633.1 et seq. and R 285.636.1 et seq. of the Michigan Administrative Code.

408.1014g Chemical in sealed package in transit by common carrier.

Sec. 14g. An employer is not required to comply with the standard incorporated by reference in section 14a or with sections 14b to 14l with respect to a chemical in a sealed package and in transit by a common carrier if the seal remains intact while in transit.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014h Employer engaged in construction operations.

Sec. 14h. An employer engaged in construction operations may satisfy the requirements of the standard incorporated in section 14a and sections 14b to 14l that a material safety data sheet be maintained for each hazardous chemical in the workplace by maintaining material safety data sheets in 1 or more central locations at a job site.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014i Plan for executing responsibilities of organized fire department.

Sec. 14i. The chief of each organized fire department shall prepare and disseminate to each fire fighting employee of the organized fire department a plan for executing the department's responsibilities with respect to each site within the organized fire department's jurisdiction where hazardous chemicals are used or produced.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014j Signs throughout workplace; contents.

Sec. 14j. An employer subject to the standard incorporated by reference in section 14a and to sections 14b to 14l shall post signs throughout the workplace advising employees of all of the following:

(a) The location of the material safety data sheets for the hazardous chemicals produced or used in the workplace and the name of the person from whom to obtain the sheets.

(b) That the employer is prohibited from discharging or discriminating against an employee who exercises the rights regarding information about hazardous chemicals in the workplace afforded by the standard incorporated by reference in section 14a and by sections 14b to 14*l*.

(c) That, as an alternative to requesting the employer for a material safety data sheet for a hazardous chemical in the workplace, the employee may obtain a copy of the material safety data sheet from the department of public health. The sign shall include the address and telephone number of the division of the department of public health that has the responsibility of responding to such requests.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014k Material safety data sheets for hazardous chemicals in workplace; organization; training employees; notice of new or revised sheets.

Sec. 14k. (1) An employer who is subject to the standard incorporated by reference in section 14a and to sections 14b to 14l shall organize the material safety data sheets for the hazardous chemicals in the workplace in a systematic and consistent manner and shall train employees in locating particular material safety data sheets.

(2) Not later than 5 working days after receipt of a new or a revised material safety data sheet, the employer shall post for a period of 10 working days a notice of the existence of the new or revised sheet and directions for locating the new or revised sheet according to the method used by the employer for organizing material safety data sheets.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014*l* Failure to provide exposed employee with access to most current material safety data sheet.

Sec. 14*l*. The failure of an employer who is subject to the standard incorporated by reference in section 14a and to this section and sections 14b to 14k to provide an exposed employee with access to the most current material safety data sheet available to the employer shall not be considered by the department as a violation for which a de minimis notice of violation may be issued under section 33(5). The department may consider such a violation to be a serious violation or a violation not of a serious nature for which a citation may be issued under section 35.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014m Conflicting provisions unenforceable.

Sec. 14m. The standard incorporated by reference in section 14a and sections 14b to 14*l* occupy the entire field of regulation of occupational safety and health with respect to hazardous chemicals in the workplace. Except as specifically provided in this act, any provision of any ordinance, law, rule, regulation, policy, or practice of a city, township, village, county, governmental authority created by statute, or other political subdivision of the state that imposes any requirement on an employer or expands the rights of an employee with respect to the communication of the hazards of hazardous chemicals in the workplace shall be considered in conflict with this act and shall not be enforceable.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT

Act 397 of 1978

AN ACT to permit employees to review personnel records; to provide criteria for the review; to prescribe the information which may be contained in personnel records; and to provide penalties.

History: 1978, Act 397, Eff. Jan. 1, 1979.

The People of the State of Michigan enact:

423.501 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "Bullard-Plawecki employee right to know act".

(2) As used in this act:

(a) "Employee" means a person currently employed or formerly employed by an employer.

(b) "Employer" means an individual, corporation, partnership, labor organization, unincorporated association, the state, or an agency or a political subdivision of the state, or any other legal, business, or commercial entity which has 4 or more employees and includes an agent of the employer.

(c) "Personnel record" means a record kept by the employer that identifies the employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary action. A personnel record shall include a record in the possession of a person, corporation, partnership, or other association who has a contractual agreement with the employer to keep or supply a personnel record as provided in this subdivision. A personnel record shall not include:

(*i*) Employee references supplied to an employer if the identity of the person making the reference would be disclosed.

(*ii*) Materials relating to the employer's staff planning with respect to more than 1 employee, including salary increases, management bonus plans, promotions, and job assignments.

(*iii*) Medical reports and records made or obtained by the employer if the records or reports are available to the employee from the doctor or medical facility involved.

(*iv*) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(*v*) Information that is kept separately from other records and that relates to an investigation by the employer pursuant to section 9.

(*vi*) Records limited to grievance investigations which are kept separately and are not used for the purposes provided in this subdivision.

(*vii*) Records maintained by an educational institution which are directly related to a student and are considered to be education records under section 513(a) of title 5 of the family educational rights and privacy act of 1974, 20 U.S.C. 1232g.

(*viii*) Records kept by an executive, administrative, or professional employee that are kept in the sole possession of the maker of the record, and are not accessible or shared with other persons. However, a record concerning an occurrence or fact about an employee kept pursuant to this subparagraph may be entered into a personnel record if entered not more than 6 months after the date of the occurrence or the date the fact becomes known.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.502 Personnel record information excluded from personnel record; use in judicial or quasi-judicial proceeding.

Sec. 2. Personnel record information which was not included in the personnel record but should have been as required by this act shall not be used by an employer in a judicial or quasi-judicial proceeding. However, personnel record information which, in the opinion of the judge in a judicial proceeding or in the opinion of the hearing officer in a quasi-judicial proceeding, was not intentionally excluded in the personnel record, may be used by the employer in the judicial or quasi-judicial proceeding, if the employee agrees or if the employee has been given a reasonable time to review the information. Material which should have been included in the personnel record shall be used at the request of the employee.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.503 Review of personnel record by employee.

Sec. 3. An employer, upon written request which describes the personnel record, shall provide the employee with an opportunity to periodically review at reasonable intervals, generally not more than 2 times in a calendar year or as otherwise provided by law or a collective bargaining agreement, the employee's personnel record if the employer has a personnel record for that employee. The review shall take place at a location reasonably near the employee's place of employment and during normal office hours. If a review during normal office hours would require an employee to take time off from work with that employer, then the employer shall provide some other reasonable time for the review. The employer may allow the review to take place at another time or location that would be more convenient to the employee.

History: 1978, Act 397, Eff. Jan. 1, 1979.

Cited in other sections: Section 423.503 is cited in §408.1024.

423.504 Copy of information in personnel record; fee; mailing.

Sec. 4. After the review provided in section 3, an employee may obtain a copy of the information or part of the information contained in the employee's personnel record. An employer may charge a fee for providing a copy of information contained in the personnel record. The fee shall be limited to the actual incremental cost of duplicating the information. If an employee demonstrates that he or she is unable to review his or her personnel record at the employing unit, then the employer, upon that employee's written request, shall mail a copy of the requested record to the employee.

History: 1978, Act 397, Eff. Jan. 1, 1979.

Cited in other sections: Section 423.504 is cited in §408.1024.

423.505 Disagreement with information contained in personnel record; agreement to remove or correct information; statement; legal action to have information expunged.

Sec. 5. If there is a disagreement with information contained in a personnel record, removal or correction of that information may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining the employee's position. The statement shall not exceed 5 sheets of 8-1/2-inch by 11-inch paper and shall be included when the information is divulged to a third party and as long as the original information is a part of the file. If either the employer or employee knowingly places in the personnel record information which is false, then the employer or employee, whichever is appropriate, shall have remedy through legal action to have that information expunged.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.506 Divulging disciplinary report, letter of reprimand, or other disciplinary action; notice; exceptions.

Sec. 6. (1) An employer or former employer shall not divulge a disciplinary report, letter of reprimand, or other disciplinary action to a third party, to a party who is not a part of the employer's organization, or to a party who is not a part of a labor organization representing the employee, without written notice as provided in this section.

(2) The written notice to the employee shall be by first-class mail to the employee's last known address, and shall be mailed on or before the day the information is divulged from the personnel record.

(3) This section shall not apply if any of the following occur:

(a) The employee has specifically waived written notice as part of a written, signed employment application with another employer.

(b) The disclosure is ordered in a legal action or arbitration to a party in that legal action or arbitration.

(c) Information is requested by a government agency as a result of a claim or complaint by an employee.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.507 Review of personnel record before releasing information; deletion of disciplinary reports, letters of reprimand, or other records; exception.

Sec. 7. An employer shall review a personnel record before releasing information to a third party and, except when the release is ordered in a legal action or arbitration to a party in that legal action or arbitration, delete disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than 4 years old.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.508 Gathering or keeping certain information prohibited; exceptions; information as part of personnel record.

Sec. 8. (1) An employer shall not gather or keep a record of an employee's associations, political activities, publications, or communications of nonemployment activities, except if the information is submitted in writing by or authorized to be kept or gathered, in writing, by the employee to the employer. This prohibition on records shall not apply to the activities that occur on the employer's premises or during the employee's working hours with that employer that interfere with the performance of the employee's duties or duties of other employees.

(2) A record which is kept by the employer as permitted under this section shall be part of the personnel record.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.509 Investigation of criminal activity by employer; separate file of information; notice to employee; destruction or notation of final disposition of file and copies; prohibited use of information.

Sec. 9. (1) If an employer has reasonable cause to believe that an employee is engaged in criminal activity which may result in loss or damage to the employer's property or disruption of the employer's business operation, and the employer is engaged in an investigation, then the employer may keep a separate file of information relating to the investigation. Upon completion of the investigation or after 2 years, whichever comes first, the employee shall be notified that an investigation was or is being conducted of the suspected criminal activity described in this section. Upon completion of the investigation, if disciplinary action is not taken, the investigative file and all copies of the material in it shall be destroyed.

(2) If the employer is a criminal justice agency which is involved in the investigation of an alleged criminal activity or the violation of an agency rule by the employee, the employer shall maintain a separate confidential file of information relating to the investigation. Upon completion of the investigation, if disciplinary action is not taken, the employee shall be notified that an investigation was conducted. If the investigation reveals that the allegations are unfounded, unsubstantiated, or disciplinary action is not taken, the separate file shall contain a notation of the final disposition of the investigation and information in the file shall not be used in any future consideration for promotion, transfer, additional compensation, or disciplinary action.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.510 Right of access to records not diminished.

Sec. 10. This act shall not be construed to diminish a right of access to records as provided in Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, or as otherwise provided by law.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.511 Violation; action to compel compliance; jurisdiction; contempt; damages.

Sec. 11. If an employer violates this act, an employee may commence an action in the circuit court to compel compliance with this act. The circuit court for the county in which the complainant resides, the circuit court for the county in which the complainant is employed, or the circuit court for the county in which the personnel record is maintained shall have jurisdiction to issue the order. Failure to comply with an order of the court may be punished as contempt. In addition, the court shall award an employee prevailing in an action pursuant to this act the following damages:

(a) For a violation of this act, actual damages plus costs.

(b) For a wilful and knowing violation of this act, $200.00 plus costs, reasonable attorney's fees, and actual damages.

History: 1978, Act 397, Eff. Jan. 1, 1979.

423.512 Effective date.

Sec. 12. This act shall take effect January 1, 1979.

History: 1978, Act 397, Eff. Jan. 1, 1979.

LIBRARIES AND LYCEUMS

R.S. 1846, Ch. 53

Of libraries and lyceums.

History: R.S. 1846, Ch. 53.

450.691 Incorporation of library by proprietors; meeting; notice.

Sec. 1. Any 7 or more proprietors of a library may form themselves into a corporation, under such corporate name as they may adopt, for the purpose of enlarging, regulating, and using such library; and for that purpose the district or municipal court of the judicial district or municipality in which the library is located may, on the application of 5 or more of the proprietors, issue a warrant to 1 of them, directing him or her to call a meeting of the proprietors at the time and place expressed in the warrant, for the purpose of forming such corporation, and such meeting shall be called by posting up a notice containing the substance of such warrant, in at least 2 public places in the township where such library is kept, at least 7 days before the time of meeting.

History: R.S. 1846, Ch. 53;—CL 1857, 1782;—CL 1871, 3146;—How. 4407;—CL 1897, 8164;—CL 1915, 10683;—CL 1929, 10176;—CL 1948, 450.691;—Am. 1991, Act 146, Imd. Eff. Nov. 25, 1991.

450.692 Libraries; proprietors; powers; proceedings, certificate; recording.

Sec. 2. Any 7 or more of the proprietors of such library, met in pursuance of such notice, may choose a president, a clerk, a librarian, collector, treasurer, and such other officers as they may deem necessary; and they may also determine upon the mode of calling future meetings of the proprietors; and the proceedings of such first meeting, containing a specification of the corporate name adopted by such proprietors, shall be certified by the clerk of such corporation, and recorded by the county clerk of the county within which the same is formed, who shall be entitled to receive 75 cents for recording the same.

History: R.S. 1846, Ch. 53;—CL 1857, 1783;—CL 1871, 3147;—How. 4408;—CL 1897, 8165;—CL 1915, 10684;—CL 1929, 10177;—CL 1948, 450.692.

450.693 Libraries; powers of corporation; governing law.

Sec. 3. When such proprietors shall be organized as a corporation in the manner hereinbefore provided, they shall have all the powers and privileges, and be subject to all the duties of a corporation, according to the provisions of chapter 55, so far as such provisions shall be applicable in such case, and not inconsistent with the provisions of this chapter.

History: R.S. 1846, Ch. 53;—CL 1857, 1784;—CL 1871, 3148;—How. 4409;—CL 1897, 8166;—CL 1915, 10685;—CL 1929, 10178;—CL 1948, 450.693.

Compiler's note: For provisions of chapter 55, referred to in this section, see §450.504 et seq.

450.694 Libraries; collector and treasurer, bond.

Sec. 4. The treasurer and collector shall give bond to such corporation, with sufficient sureties, to the satisfaction of the president, for the faithful discharge of their duties.

History: R.S. 1846, Ch. 53;—CL 1857, 1785;—CL 1871, 3149;—How. 4410;—CL 1897, 8167;—CL 1915, 10686;—CL 1929, 10179;—CL 1948, 450.694.

450.695 Libraries; shares, assessment and transfer; holding of property.

Sec. 5. The said proprietors may raise such sums of money by assessment on the shares as they shall judge necessary for the purpose of preserving, enlarging and using the library; and the shares may be transferred according to such regulations as they may prescribe, and such corporation may hold (and may acquire by gift, grant, bequest or devise) real and personal estate to any amount not exceeding (25,000 dollars), in addition to the value of their books; (and may hold in trust property granted, bequeathed or devised as may be prescribed by the grantor or testator; and may be the beneficiaries of trusts created for their benefit.)

History: R.S. 1846, Ch. 53;—CL 1857, 1786;—CL 1871, 3150;—How. 4411;—CL 1897, 8168;—Am. 1899, Act 10, Imd. Eff. Mar. 2, 1899;—CL 1915, 10687;—CL 1929, 10180;—CL 1948, 450.695.

450.696 Libraries; organization; powers.

Sec. 6. Any 15 or more persons, in any township or county within this state, who shall by writing associate for the purpose of mental improvement, and the promotion of education, may form themselves into a corporation by the name of "the lyceum of .....," (the name of the place where the meetings of the corporation are to be holden) by calling their first meeting and being organized in like manner as is provided in this chapter, in the case of library corporations, and every lyceum, upon becoming a corporation as aforesaid, shall have, during the pleasure of the legislature, all the like rights, powers, and privileges, as the proprietors of such libraries, and may hold real and personal estate, not exceeding 6,000 dollars.

History: R.S. 1846, Ch. 53;—CL 1857, 1787;—CL 1871, 3151;—How. 4412;—CL 1897, 8169;—CL 1915, 10688;—CL 1929, 10181;—CL 1948, 450.696.

MARKING COUNTERFEIT, ALTERED, OR WORTHLESS BILLS (EXCERPT)

Act 165 of 1865

AN ACT making it obligatory upon banks and bankers in this state to stamp counterfeit, altered and worthless bank bills.

History: 1865, Act 165, Eff. June 22, 1865.

The People of the State of Michigan enact:

487.652 Marking of counterfeit, altered, or worthless bills; penalty for failure; recovery; disposition of proceeds; civil liability for mistaken marking.

Sec. 2. Any bank or banker willfully or knowingly neglecting or refusing to write upon or stamp any bill or bills, knowing them to be counterfeit, altered or worthless, as presented in the preceding section, shall forfeit and pay the purported value of the bill or bills allowed to pass without being so written upon or stamped, to be recovered before any court having jurisdiction, and paid into the county treasury for the benefit of the library fund; and if any bank or banker, or bank officer, shall so write upon or stamp a bank bill which is not a counterfeit, or altered or worthless bill, such bank or banker, or bank officer, shall only be liable to pay the holder thereof the value of such bill or bills, which shall be paid on presentation and surrender of such bill or bills to the person stamping or marking the same.

History: 1865, Act 165, Eff. June 22, 1865;—CL 1871, 2256;—How. 3211;—CL 1897, 5278;—CL 1915, 6723;—CL 1929, 12071;—CL 1948, 487.652.

REVISED JUDICATURE ACT OF 1961 (EXCERPTS)

Act 236 of 1961

AN ACT to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 52, Imd. Eff. Mar. 26, 1974.

The People of the State of Michigan enact:

CHAPTER 21.

EVIDENCE

600.2136 Library record, book, or paper; copy or reproduction admissible as evidence; fee; false certification; penalty.

Sec. 2136. (1) A copy of a record, book, or paper belonging to or in the custody of a public, college, or university library, or an incorporated library society, if accompanied by a sworn statement by the librarian or other person in charge of the record, book, or paper, that the copy is a true copy of the original in his or her custody, is admissible as evidence in a court or proceeding in like manner and to the same extent as the original would be if produced.

(2) A reproduction of a record, book, paper, or document belonging to or in the custody of a public, college, or university library, or an incorporated library society, in a medium pursuant to the records media act or a reproduction consisting of a printout or other output readable by sight from such a medium, if accompanied by a sworn statement made by the librarian or other person in charge of the record, book, paper, or document, stating that the reproduction is made under his or her supervision or that of a duly authorized representative, and that nothing has been done to alter or change the original, that the reproduction is true to the original in his or her custody, is admissible as evidence in a court or proceeding in like manner as the original would be if produced.

(3) For making and certifying a copy under subsection (1), a fee of 25 cents may be charged. For making and certifying each reproduction under subsection (2), a fee of $1.00 may be charged. If the reproduction is a photocopy, the fee shall not exceed $1.00 and a further charge of 10 cents per folio and 50 cents per sheet for photocopies actually made.

(4) A person who certifies falsely under subsection (1) or (2) is guilty of a felony punishable by the same penalty provided by statute for perjury.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

CHAPTER 29.

PROVISIONS CONCERNING SPECIFIC ACTIONS

600.2917 Liability of library, merchant, agent, or independent contractor for conduct involving person suspected of larceny of goods or library materials, or of violating §750.356c or §750.356d; definitions.

Sec. 2917. (1) In a civil action against a library or merchant, an agent of the library or merchant, or an independent contractor providing security for the library or merchant for false imprisonment, unlawful arrest, assault, battery, libel, or slander, if the claim arises out of conduct involving a person suspected of removing or of attempting to remove, without right or permission, goods held for sale in a store from the store or library materials from a library, or of violating section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, and if the merchant, library, agent, or independent contractor had probable cause for believing and did believe that the plaintiff had committed or aided or abetted in the larceny of goods held for sale in the store, or of library materials, or in the violation of section 356c or 356d of Act No. 328 of the Public Acts of 1931, damages for or resulting from mental anguish or punitive, exemplary, or aggravated damages shall not be allowed a plaintiff, unless it is proved that the merchant, library, agent, or independent contractor used unreasonable force, detained the plaintiff an unreasonable length of time, acted with unreasonable disregard of the plaintiff's rights or sensibilities, or acted with intent to injure the plaintiff.

(2) As used in this section:

(a) "Library" includes a public library; a library of an educational, historical, or eleemosynary institution or organization; a museum; an archive; and a repository of public records or historical records, or both.

(b) "Library material" includes a plate; picture; photograph; engraving; painting; drawing; map; newspaper; book; magazine; pamphlet; broadside; manuscript; document; letter; public record; microfilm; sound recording; audiovisual material; magnetic or other tape; optical storage disc or other recording medium; electronic data processing record; artifact; and other documentary, written, or printed material.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1983, Act 223, Imd. Eff. Nov. 28, 1983;—Am. 1988, Act 50, Eff. June 1, 1988;—Am. 1992, Act 192, Imd. Eff. Oct. 5, 1992.

CHAPTER 48.

COLLECTION OF PENALTIES, FINES, AND FORFEITED RECOGNIZANCES

600.4845 Moneys from fines and penalties; duties of county treasurer.

Sec. 4845. (1) The county treasurer shall credit all fines for the violation of the penal laws to the library fund and all other penalties to the general fund; and he shall account therefor to the board of supervisors annually.

(2) In case of the sale of any real estate upon an execution upon judgment rendered for the breach of any recognizance in any criminal case the county treasurer shall, in case there are no bidders to the full amount of any such judgment or the value of the property advertised, bid off the same. If the same is not redeemed within the time allowed by law for the redemption thereof, the county treasurer shall sell the same for the best price he can obtain therefor, and place the money received in the general fund.

History: 1961, Act 236, Eff. Jan. 1, 1963.

Cited in other sections: Section 600.4845 is cited in §397.37.

600.4851 County law library fund; maximum sums credited from library fund; payment upon order of circuit judge or presiding judge; annual report.

Sec. 4851. (1) In each county the county treasurer shall credit semiannually to a fund to be known as the county law library fund, from the library fund, an amount as follows:

(a) In counties having a population of 250,000 or more, but less than 1,000,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $4,000.00.

(*ii*) For 1982, $6,250.00.

(*iii*) For 1983 and each year thereafter, $8,500.00.

(b) In counties having a population of 50,000 or more, but less than 250,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $3,000.00.

(*ii*) For 1982, $4,750.00.

(*iii*) For 1983 and each year thereafter, $6,500.00.

(c) In counties of 35,000 or more, but less than 50,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $2,000.00.

(*ii*) For 1982, $3,250.00.

(*iii*) For 1983 and each year thereafter, $4,500.00.

(d) In counties of 20,000 or more, but less than 35,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $1,500.00.

(*ii*) For 1982, $2,500.00.

(*iii*) For 1983 and each year thereafter, $3,500.00.

(e) In counties of 10,000 or more, but less than 20,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $1,000.00.

(*ii*) For 1982, $1,750.00.

(*iii*) For 1983 and each year thereafter, $2,500.00.

(f) In counties of less than 10,000 inhabitants, the sum credited shall not exceed:

(*i*) For 1981, $750.00.

(*ii*) For 1982, $1,375.00.

(*iii*) For 1983 and each year thereafter, $2,000.00.

(2) All money credited to the county law library fund shall be paid out by the county treasurer only upon the order of the circuit judge in multiple county circuits or upon the order of the presiding judge in single county circuits for the purpose of establishing, operating, and maintaining a law library for the use of the circuit, district, and probate courts in the county and for the officers of the courts and persons having business in the courts.

(3) The county law librarian, or other person as the circuit or presiding judge shall designate, shall make a detailed report before January 2 of each year of the sums expended for books for the county law library. The annual report shall be filed with the county clerk.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1982, Act 18, Imd. Eff. Mar. 3, 1982;—Am. 1982, Act 173, Imd. Eff. June 4, 1982.

Cited in other sections: Section 600.4851 is cited in §397.37.

CHAPTER 83.

DISTRICT COURT: JURISDICTION; POWERS

600.8379 Fines and costs assessed in district court; payment; disposition.

Sec. 8379. (1) Fines and costs assessed in the district court shall be paid to the clerk of the court who shall appropriate them as follows:

(a) A fine imposed for the violation of a penal law of this state and a civil fine ordered in a civil infraction action for violation of a law of this state shall be paid to the county treasurer and applied for library purposes as provided by law.

(b) In districts of the first and second class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the county in which the action was commenced. In districts of the third class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place.

(c) Except as provided in subsection (2), in districts of the first and second class, 1/3 of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 2/3 shall be paid to the county in which the political subdivision is located. In districts of the third class, all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated, except that where fines and costs are assessed in a political subdivision other than the political subdivision whose law was violated, 2/3 shall be paid to the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place and the balance shall be paid to the political subdivision whose law was violated.

(d) In a district of the third class, if each political subdivision within the district, by resolution of its governing body, agrees to a distribution of fines and costs, other than fines imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, differently than as provided by this section, the distribution of those fines and costs among the political subdivisions of that district shall be as agreed to. An existing agreement applicable to the distribution of fines and costs shall apply with the same effect to the distribution of civil fines and costs ordered in civil infraction actions.

(2) In the fifty-second district, 30% of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 70% shall be paid to the county in which the political subdivision is located. This subsection shall apply only if the consolidation of the forty-fifth-b district with the fifty-second district, as provided in section 8123, takes place pursuant to section 8177.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 239, Eff. Sept. 1, 1969;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1979, Act 67, Eff. Aug. 1, 1979;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990.

Compiler's note: Section 2 of Act 54 of 1990 states: "If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

Cited in other sections: Section 600.8379 is cited in §§41.183, 42.21, 117.31, and 124.284b.

DISSEMINATING, EXHIBITING, OR DISPLAYING SEXUALLY EXPLICIT MATTER TO MINORS

Act 33 of 1978

AN ACT to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts.

History: 1978, Act 33, Eff. June 1, 1978.

The People of the State of Michigan enact:

722.671 Definitions generally.

Sec. 1. As used in this act:

(a) "Exhibit" means to do 1 or more of the following:

(i) Present a performance.

(ii) Sell, give, or offer to agree to sell or give a ticket to a performance.

(iii) Admit a minor to premises where a performance is being presented or is about to be presented.

(b) "Disseminate" means to sell, lend, give, exhibit, or show or to offer or agree to do the same.

(c) "Minor" means a person under 18 years of age.

History: 1978, Act 33, Eff. June 1, 1978.

722.672 Additional definitions.

Sec. 2. As used in this act:

(a) "Nudity" means the lewd display of the human male or female genitals or pubic area.

(b) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(c) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, for the purpose of sexual gratification or stimulation.

(d) "Sadomasochistic abuse" means either of the following:

(i) Flagellation, or torture, for sexual stimulation or gratification, by or upon a person who is nude or clad only in undergarments or in a revealing or bizarre costume.

(ii) The condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification, of a person who is nude or clad only in undergarments or in a revealing or bizarre costume.

(e) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal.

History: 1978, Act 33, Eff. June 1, 1978.

722.673 Additional definitions.

Sec. 3. As used in this act:

(a) "Sexually explicit matter" means sexually explicit visual material, sexually explicit verbal material, or sexually explicit performance.

(b) "Sexually explicit performance" means a motion picture, exhibition, show, representation, or other presentation, which, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(c) "Sexually explicit verbal material" means a book, pamphlet, magazine, printed matter reproduced in any manner, or sound recording which contains an explicit and detailed verbal description or narrative account of sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(d) "Sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, or similar visual representation which depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet which contains such a visual representation. An undeveloped photograph, mold, or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

History: 1978, Act 33, Eff. June 1, 1978.

722.674 Additional definitions.

Sec. 4. As used in this act:

(a) "Harmful to minors" means sexually explicit matter which meets all of the following criteria:

(i) Considered as a whole, it appeals to the prurient interest of minors as determined by contemporary local community standards.

(ii) It is patently offensive to contemporary local community standards of adults as to what is suitable for minors.

(iii) Considered as a whole, it lacks serious literary, artistic, political, educational, and scientific value for minors.

(b) "Local community" means the county in which the matter was disseminated.

(c) "Prurient interest" means a lustful interest in sexual stimulation or gratification. In determining whether sexually explicit matter appeals to the prurient interest, the matter shall be judged with reference to average 17-year-old minors. If it appears from the character of the matter that it is designed to appeal to the prurient interest of a particular group of persons, including, but not limited to, homosexuals or sadomasochists, then the matter shall be judged with reference to average 17-year-old minors within the particular group for which it appears to be designed.

History: 1978, Act 33, Eff. June 1, 1978.

722.675 Distributing obscene matter to minor; misdemeanor; penalty.

Sec. 5. (1) A person is guilty of distributing obscene matter to a minor if that person does either of the following:

(a) Knowingly disseminates to a minor sexually explicit visual or verbal material that is harmful to minors.

(b) Knowingly exhibits to a minor a sexually explicit performance that is harmful to minors.

(2) A person knowingly disseminates sexually explicit matter to a minor when the person knows both the nature of the matter and the status of the minor to whom the matter is disseminated.

(3) A person knows the nature of matter if the person either is aware of the character and content of the matter or recklessly disregards circumstances suggesting the character and content of the matter.

(4) A person knows the status of a minor if the person either is aware that the person to whom the dissemination is made is under 18 years of age or recklessly disregards a substantial risk that the person to whom the dissemination is made is under 18 years of age.

(5) Distributing obscene matter to a minor is a misdemeanor, punishable by imprisonment for not more than 2 years or a fine of not more than $10,000.00, or both. In imposing the fine authorized for this offense, the court shall consider the scope of the defendant's commercial activity in distributing obscene matter to minors.

History: 1978, Act 33, Eff. June 1, 1978.

Cited in other sections: Section 722.675 is cited in §600.4701

722.676 Persons excepted from §722.675.

Sec. 6. Section 5 does not apply to the dissemination of sexually explicit matter to a minor by any of the following persons:

(a) A parent or guardian who disseminates sexually explicit matter to his or her child or ward.

(b) A teacher or administrator at a public or private elementary or secondary school which complies with the provisions of Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1853 of the Michigan Compiled Laws, who disseminates sexually explicit matter to a student as part of a school program permitted by law.

(c) A licensed physician or certified psychologist who disseminates sexually explicit matter in the treatment of a patient.

(d) A librarian employed by a library of a public or private elementary or secondary school which complies with the provisions of Act No. 451 of the Public Acts of 1976, or employed by a public library, who disseminates sexually explicit matter in the course of that person's employment.

(e) Any public or private college or university or any other person who disseminates sexually explicit matter for a legitimate medical, scientific, governmental, or judicial purpose.

History: 1978, Act 33, Eff. June 1, 1978.

722.677 Displaying obscene matter to minor; misdemeanor; penalty.

Sec. 7. (1) A person is guilty of displaying obscene matter to a minor if that person possesses managerial responsibility for a business enterprise selling visual matter which depicts sexual intercourse or sadomasochistic abuse and which is harmful to minors, and that person knowingly permits a minor who is not accompanied by a parent or guardian to examine that matter.

(2) A person knowingly permits a minor to examine visual matter which depicts sexual intercourse or sadomasochistic abuse and which is harmful to minors, if the person knows both the nature of the matter and the status of the minor permitted to examine the matter.

(3) A person knows the nature of the matter if the person either is aware of the character and content of the matter or recklessly disregards circumstances suggesting the character and content of the matter.

(4) A person knows the status of a minor if the person either is aware that the person who is permitted to examine the matter is under 18 years of age or recklessly disregards a substantial risk that the person who is permitted to examine the matter is under 18 years of age.

(5) Displaying obscene matter to a minor is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $5,000.00, or both.

History: 1978, Act 33, Eff. June 1, 1978.

Cited in other sections: Section 722.677 is cited in §600.4701.

722.678 Facilitative misrepresentation; misdemeanor; penalty.

Sec. 8. (1) A person is guilty of facilitative misrepresentation when that person knowingly makes a false representation that he or she is the parent or guardian of a minor, or that a minor is 18 years of age or older, with the intent to facilitate the dissemination to the minor of sexually explicit matter that is harmful to minors.

(2) A person knowingly makes a false representation as to the age of a minor or as to the status of being the parent or guardian of a minor if the person either is aware that the representation is false or recklessly disregards a substantial risk that the representation is false.

(3) Facilitative misrepresentation is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $5,000.00, or both.

History: 1978, Act 33, Eff. June 1, 1978.

722.679 Injunction.

Sec. 9. A prosecuting attorney may commence an action in the circuit court against a person, other than a person described in section 6, to enjoin that person from disseminating to a minor sexually explicit matter that is harmful to minors.

History: 1978, Act 33, Eff. June 1, 1978.

722.680 Advisory opinion as to legality of disseminating sexually explicit matter to minor; action for declaratory judgment; prosecuting attorney as defendant; counterclaim for injunctive relief; dismissal of action.

Sec. 10. (1) A person intending to disseminate to a minor matter that may be considered sexually explicit may request, from the prosecuting attorney of the county in which the dissemination is intended, an advisory opinion as to the legality of that dissemination. The request for an advisory opinion shall be in writing and shall be accompanied by a reasonable and timely opportunity for the prosecuting attorney to examine the matter. Not more than 5 business days after receipt of a proper request, the prosecuting attorney shall issue to the person making the request an advisory opinion, or a refusal to issue an advisory opinion, in writing. The advisory opinion shall state in unequivocal terms whether knowing dissemination of the matter to a minor would be considered by the prosecuting attorney to violate section 5.

(2) A person who has requested an advisory opinion may commence an action for a declaratory judgment in the circuit court in the same county to obtain an adjudication of the legality of the intended dissemination if either of the following conditions exist:

(a) The action is commenced more than 5 business days after submission of a proper request, and the prosecuting attorney has failed to issue an advisory opinion.

(b) The prosecuting attorney has issued an advisory opinion and that opinion fails to state in unequivocal terms that knowing dissemination of the matter to a minor would not be considered by the prosecuting attorney to violate section 5.

(3) The prosecuting attorney shall be made the defendant to an action commenced pursuant to subsection (2). In responding to the complaint, the prosecuting attorney may join a counterclaim for the injunctive relief permitted under section 9.

(4) If the prosecuting attorney, after commencement of the action, issues an advisory opinion stating in unequivocal terms that knowing dissemination of the matter to a minor would not be considered by the prosecuting attorney to violate section 5, the action shall be dismissed.

History: 1978, Act 33, Eff. June 1, 1978.

722.681 Provisions applicable to actions commenced pursuant to §722.679 or §722.680.

Sec. 11. The following provisions apply in an action commenced pursuant to section 9 or 10:

(a) The prosecuting attorney shall bear the burden of proving, by clear and convincing evidence, that knowing dissemination of the specified matter to a minor would violate section 5.

(b) Upon appropriate motion of the prosecuting attorney or order to show cause, the court may grant a preliminary injunction or ex parte restraining order. A person enjoined under this subdivision is entitled to a trial on the legality of the intended dissemination within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days after the conclusion of the trial.

(c) The prosecuting attorney shall not be required to file any security before the granting of a preliminary injunction or restraining order, shall not be liable for costs, and shall not be liable for damages sustained by reason of the preliminary injunction or restraining order.

(d) The proceedings are equitable in nature.

History: 1978, Act 33, Eff. June 1, 1978.

722.682 Effect of §§722.679 to 722.681 on prosecutions under other laws; declaratory judgment or denial of injunction as defense; withdrawing opinion and obtaining injunction as conditions for prosecution under §722.675; applicability of declaratory judgment or injunction.

Sec. 12. (1) Except as provided in this section, sections 9 to 11 shall not preclude or impair prosecution for violation of any law of this state.

(2) If a declaratory judgment has been obtained pursuant to sections 10 and 11, or an application for an injunction pursuant to section 9 has been denied, on the ground that the knowing dissemination to a minor of specified matter does not violate section 5, that determination is a complete defense for a person against a prosecution under section 5 based upon the dissemination of that specified matter and against a prosecution for violation of a preliminary injunction or restraining order granted pursuant to section 11.

(3) If a prosecuting attorney issues an advisory opinion stating in unequivocal terms that knowing dissemination of specified matter to a minor is not considered by the prosecuting attorney to violate section 5, then the recipient of the opinion may be prosecuted under section 5 for the dissemination of that specified matter only after the prosecutor has both withdrawn the opinion and obtained an injunction pursuant to section 9 against the dissemination of that specified material by that person.

(4) A declaratory judgment or injunction shall apply only to the county in which the prosecuting attorney serves.

History: 1978, Act 33, Eff. June 1, 1978.

722.683 Repeal of §750.343e.

Sec. 13. Section 343e of Act No. 328 of the Public Acts of 1931, being section 750.343e of the Compiled Laws of 1970, is repealed.

History: 1978, Act 33, Eff. June 1, 1978.

722.684 Effective date.

Sec. 14. This act shall not take effect until June 1, 1978.

History: 1978, Act 33, Eff. June 1, 1978.

THE MICHIGAN PENAL CODE (EXCERPTS)

Act 328 of 1931

AN ACT to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1991, Act 56, Eff. Jan. 1, 1992.

The People of the State of Michigan enact:

CHAPTER LII

LARCENY

750.364 Larceny from libraries.

Sec. 364. Larceny from libraries—Any person who shall procure, or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use, or with intent to defraud the owner thereof, or who having procured or taken any such book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, shall thereafter convert the same to his own use or fraudulently deprive the owner thereof, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.364.

Former law: See section 2 of Act 3 of 1881, being How., §9211; CL 1897, §11641; CL 1915, §15407; CL 1929, §17020; and Act 58 of 1911.

CHAPTER LVI

MALICIOUS AND WILFUL MISCHIEF AND DESTRUCTION

750.391 Maliciously injuring or mutilating library books.

Sec. 391. Maliciously injuring or mutilating library books—Any person who shall wilfully, maliciously or wantonly tear, deface or mutilate or write upon, or by other means injure or mar any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof belonging to or loaned to any public library, or to the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.391.

Former law: See section 1 of Act 3 of 1881, being How., §9210; CL 1897, §11640; CL 1915, §15406; CL 1929, §17019; and Act 58 of 1911.

OBSCENE MATERIAL

Act 343 of 1984

AN ACT to define and prohibit the possession or dissemination of obscene material under certain circumstances; to prohibit conduct related thereto; to provide penalties; to prohibit local units of government from enacting or enforcing any law, ordinance, or rule pertaining to matters under this act; and to repeal certain acts and parts of acts.

History: 1984, Act 343, Eff. Mar. 29, 1985.

The People of the State of Michigan enact:

752.361 Meanings of words and phrases.

Sec. 1. For the purposes of this act, the words and phrases in sections 2 to 4 have the meanings ascribed to them in those sections.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.362 Definitions; C to O.

Sec. 2. (1) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this act.

(2) "Disseminate" means to manufacture, sell, lend, rent, publish, exhibit, or lease to the public for commercial gain or to offer or agree to manufacture, sell, lend, rent, publish, exhibit, or lease to the public for commercial gain.

(3) "Knowledge of content and character" means having general knowledge of the nature and character of the material involved. Knowledge of content and character may be proven by direct evidence or by circumstantial evidence, or both.

(4) "Material" means anything tangible that is capable of being used or adapted to arouse prurient interest, whether through the medium of reading, observation, sound, or in any other manner, including but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audiodisk, computer tape, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent.

(5) "Obscene" means any material that meets all of the following criteria:

(a) The average individual, applying contemporary community standards, would find the material, taken as a whole, appeals to the prurient interest.

(b) The reasonable person would find the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(c) The material depicts or describes sexual conduct in a patently offensive way.

History: 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.

752.363 Definitions; P.

Sec. 3. (1) "Person" means an individual, or a sole proprietorship, partnership, corporation, association, or other legal entity, or an agent or servant of an individual or legal entity.

(2) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.364 "Sexual conduct" defined.

Sec. 4. (1) "Sexual conduct" means 1 or more of the following:

(a) Representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.

(b) Representations or descriptions of masturbation, excretory functions, or a lewd exhibition of the genitals.

(2) "Simulated" means the explicit depiction or description of any of the types of conduct set forth in the definition of sexual conduct under subsection (1), which creates the appearance of such conduct.

(3) "Ultimate sexual acts" means sexual intercourse, fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.365 Obscenity; elements; misdemeanor; penalty; second or subsequent offense as a felony.

Sec. 5. (1) A person is guilty of obscenity when, knowing the content and character of the material, the person disseminates, or possesses with intent to disseminate, any obscene material.

(2) Obscenity is a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $100,000.00, or both.

(3) A person convicted of a second or subsequent offense under this section is guilty of a felony and may be imprisoned for not more than 2 years, and shall be fined not less than $50,000.00 or more than $5,000,000.00. For purposes of this section, an offense is considered a second or subsequent offense if the defendant has previously been convicted under this section or under any similar statute of the United States or of any state.

History: 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.

752.366 Obscenity in second degree; elements; misdemeanor; penalty.

Sec. 6. (1) A person is guilty of obscenity in the second degree when, knowing the content and character of the material, the person disseminates, or possesses with intent to disseminate, to the public any obscene material.

(2) Obscenity in the second degree is a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $5,000.00, or both.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.367 Applicability of §752.365.

Sec. 7. Section 5 does not apply to the dissemination of obscene material by any of the following:

(a) An individual who disseminates obscene material in the course of his or her duties as an employee of, or as a member of the board of directors of, any of the following:

(*i*) A public or private college, university, or vocational school.

(*ii*) A library established by this state or a library established by a county, city, township, village, or other local unit of government or authority or combination of local units of government and authorities or a library established by a community college district.

(*iii*) A public or private not for profit art museum that is exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) An individual who disseminates obscene material in the course of the individual's employment and does not have discretion with regard to that dissemination or is not involved in the management of the employer.

(c) Any portion of a business regulated by the federal communications commission.

(d) A cable television operator that is subject to the communications act of 1934, chapter 652, 48 Stat. 1064.

History: 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.

Cited in other sections: Section 752.367 is cited in §750.145c.

752.368 Prohibited conduct; violation as misdemeanor; penalty.

Sec. 8. (1) A person shall not:

(a) As a condition to a sale, allocation, consignment, or delivery for the resale of any paper, magazine, periodical, book, publication, or other merchandise, require or demand that the purchaser or consignee receive for resale or further commercial distribution any obscene material.

(b) Deny, revoke, or threaten to deny or revoke a franchise, or impose or threaten to impose any penalty, financial or otherwise, because of the failure or refusal to accept obscene material or material reasonably believed by the purchaser or consignee to be obscene.

(2) A violation of this section is a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $500.00, or both.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.369 Action by prosecuting attorney or attorney general.

Sec. 9. A prosecuting attorney or the attorney general may commence and prosecute an action under this act.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.370 Prohibited law, ordinance, or rules; exceptions.

Sec. 10. (1) A municipality, township, village, city, or an instrumentality thereof shall not enact or enforce any law, ordinance, or rule which regulates, or intends to regulate, any matter covered by this act.

(2) Subsection (1) does not apply to a zoning law, zoning ordinance, or zoning rule.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.371 Advisory opinion; declaratory judgment.

Sec. 11. (1) A person intending to possess material for dissemination or intending to disseminate material that may be considered obscene may request, from the attorney general or from the prosecuting attorney of the county in which the dissemination is intended, an advisory opinion as to the legality of the possession or dissemination. The request for an advisory opinion shall be in writing and shall be accompanied by a reasonable and timely opportunity for the prosecuting attorney to examine the material. Not more than 5 business days after receipt of a proper request, the attorney general or the prosecuting attorney shall issue to the person making the request an advisory opinion, or a refusal to issue an advisory opinion, in writing. The advisory opinion shall state in unequivocal terms whether possession with intent to disseminate or dissemination of the material would be considered by the attorney general or the prosecuting attorney to violate this act.

(2) A person who has requested an advisory opinion under subsection (1) may commence an action for a declaratory judgment, to obtain an adjudication of the legality of the intended dissemination if either of the following conditions exist:

(a) The action is commenced more than 5 business days after submission of a proper request, and the attorney general or the prosecuting attorney to whom the request was made has failed to issue an advisory opinion.

(b) The attorney general or the prosecuting attorney has issued an advisory opinion and that opinion fails to state in unequivocal terms that possession with intent to disseminate or dissemination of the material would not be considered by the attorney general or the prosecuting attorney to whom the request was made to violate this act.

(3) The attorney general or the prosecuting attorney to whom the request was made shall be made the defendant to an action commenced pursuant to subsection (2).

(4) If the attorney general or the prosecuting attorney to whom the request was made, after commencement of the declaratory judgment action, issues an advisory opinion stating in unequivocal terms that knowing possession with intent to disseminate or dissemination of the material would not be considered by him or her to violate this act, the action shall be dismissed.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.372 Burden of proof.

Sec. 12. The attorney general or the prosecuting attorney to whom a request for an advisory opinion was made under section 11 shall bear the burden of proving beyond a reasonable doubt that possession with intent to disseminate or dissemination of the specified material would violate this act for purposes of an action commenced under section 11(2).

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.373 Advisory opinion as bar to prosecution; declaratory judgment as defense.

Sec. 13. (1) Except as provided in this section, section 11 does not preclude prosecution for violation of this act.

(2) If a declaratory judgment has been issued pursuant to section 11 stating that possession with intent to disseminate or dissemination of specified material does not violate this act, the determination is a complete defense for a person against a prosecution under this act.

(3) If the attorney general or a prosecuting attorney issues an advisory opinion stating in unequivocal terms that possession with intent to disseminate or dissemination of specified material is not considered by him or her to violate this act, then the recipient of the opinion may not be prosecuted under this act for a violation of section 5 or section 6 for that specified material, unless the attorney general or prosecuting attorney who issued the advisory opinion notifies the recipient of the opinion that the advisory opinion is being withdrawn and the person is provided with at least 45 days' notice.

(4) An advisory opinion stating that possession with intent to disseminate or dissemination of specified material is not considered to violate this act which is issued by a prosecuting attorney shall be a bar to prosecution under this act only in the county in which the prosecutor who issued the opinion serves.

History: 1984, Act 343, Eff. Mar. 29, 1985.

752.374 Repeal of §§750.343a to 750.343d, 750.344, 750.345, 750.345a, and 750.346.

Sec. 14. Sections 343a to 343d, 344, 345, 345a, and 346 of Act No. 328 of the Public Acts of 1931, being sections 750.343a to 750.343d, 750.344, 750.345, 750.345a, and 750.346 of the Michigan Compiled Laws, are repealed.

History: 1984, Act 343, Eff. Mar. 29, 1985.

DISTURBANCE OF RELIGIOUS MEETINGS (EXCERPT)

R.S. 1846, Ch. 158

Of offences against chastity, morality and decency.

History: R.S. 1846, Ch. 158.

752.526 Violation of §752.525; fine.

Sec. 26. Whoever shall violate either of the provisions of the foregoing section, may be convicted before the district or municipal court of the judicial district or municipality where the offense was committed, and on such conviction shall be fined a sum not exceeding $25.00, for the benefit of the township libraries.

History: R.S. 1846, Ch. 158;—CL 1857, 5881;—CL 1871, 7715;—How. 9301;—CL 1897, 11714;—CL 1915, 15489;—CL 1929, 16840;—CL 1948, 752.526;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

UNAUTHORIZED TRANSFER OF RECORDED SOUND

Act 274 of 1975

AN ACT to prohibit the unauthorized transfer of recorded sound and the sale, transfer, advertising, or possession for sale or transfer, of products resulting therefrom; and to provide penalties and remedies.

History: 1975, Act 274, Eff. Mar. 31, 1976.

The People of the State of Michigan enact:

752.781 "Owner" defined.

Sec. 1. As used in this act, "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, or other article used for reproducing sound on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sound is directly or indirectly derived.

History: 1975, Act 274, Eff. Mar. 31, 1976.

752.782 Transfer of recorded sound for sale or sales promotion without consent of owner; penalty.

Sec. 2. (1) A person, without the consent of the owner, shall not transfer or cause to be transferred sound recorded on a phonograph record, disc, wire, tape, film, or other article on which sound is recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of a product, the article on which the sound is so transferred.

(2) A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than $5,000.00, or both.

History: 1975, Act 274, Eff. Mar. 31, 1976.

752.783 Advertising or sale of recorded sound without consent of owner.

Sec. 3. (1) A person, knowing or having reasonable grounds to know that the sound thereon has been transferred without the consent of the owner, shall not advertise, sell, resell, offer for sale or resale, or possess for the purpose of sale or resale, an article that has been produced in violation of section 2.

(2) A person who violates this section shall be guilty of a misdemeanor punishable by a fine of not more than $100.00 for each offense.

History: 1975, Act 274, Eff. Mar. 31, 1976.

752.784 Recordings to which §§752.782 and 752.783 applicable.

Sec. 4. Sections 2 and 3 of this act shall apply only to those recordings originally fixed before February 15, 1972, which were not protected by 17 U.S.C. section 1(f).

History: 1975, Act 274, Eff. Mar. 31, 1976.

752.785 Persons to whom act inapplicable.

Sec. 5. This act does not apply to a person who transfers or causes to be transferred sound:

(a) Intended for or in connection with radio or television broadcast transmission or related uses.

(b) For archival, library, or educational purposes.

(c) Solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

History: 1975, Act 274, Eff. Mar. 31, 1976.

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Library of Michigan
P. O. Box 30007, 717 West Allegan Street, Lansing, MI 48909
Administration: 517-373-1580. Information: 517-373-5400.

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